

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1401**

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 513, 531, 701, 705, 905, 1021, and 1025 (MCL 436.1513, 436.1531, 436.1701, 436.1705, 436.1905, 436.2021, and 436.2025), section 513 as amended by 2000 PA 344 and section 531 as amended by 2001 PA 223, and by adding section 518.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 513. (1) The commission may issue to the governing
2 board of a college or university, without regard to the quota
3 provisions of section 531, a license to sell alcoholic liquor for
4 consumption on the premises of a conference center operated by
5 the governing board. Licenses granted under this subsection may
6 be used only for the sale of alcoholic liquor at regularly
7 scheduled conference center activities. The sale of alcoholic

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1 liquor to unscheduled patrons or at unscheduled events is
2 prohibited under this subsection.

3 (2) Subject to the provisions of section 531, the commission
4 may issue a license to a private entity for the sale of alcoholic
5 liquor for consumption on the premises of a hotel located on land
6 owned by central Michigan university if both of the following
7 circumstances exist:

8 (a) The land is leased or subleased at fair market value to
9 a private entity that owns, leases, or subleases the hotel build-
10 ing and its fixtures.

11 (b) The hotel and land are located within an industrial,
12 research, or commercial development park established by the gov-
13 erning board of central Michigan university.

14 (3) Licenses issued pursuant to this section are nontrans-
15 ferable, and the licensee shall pay the fee required under sec-
16 tion 525.

17 (4) As used in this section:

18 (a) "College" or "university" means a 2-year or 4-year state
19 supported institution of higher education.

20 (b) "Conference center" means a building or portion of a
21 building, other than a student residence hall or student center,
22 which has meeting rooms, banquet areas, social halls, overnight
23 accommodations, and related facilities for special activities
24 scheduled by the college or university, which in the judgment of
25 the commission, has been regularly used for conferences and lodg-
26 ing of guests. The ~~Hoyt conference~~ CONVOCATION center and the
27 corporate education center at eastern Michigan university, the

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1 Kirkhof and Eberhard centers at Grand Valley state university,
2 the Bernhard center at western Michigan university, the Wadsworth
3 center at Michigan technological university, the West complex at
4 Saginaw Valley state university, the conference center at Big
5 Rapids, the applied technology center at Grand Rapids and the
6 FSU-GR conference center of Ferris state university, Grand Rapids
7 junior college, the Waterman campus center at Schoolcraft col-
8 lege, the Mendel center at Lake Michigan community college, the
9 McGregor memorial conference center at Wayne state university,
10 the Michigan state university management educational center, the
11 Superior dome at northern Michigan university, Walker Cisler
12 center at Lake Superior state university, the Marie Prahl college
13 center at Mott community college, and the farmhouse at Delta col-
14 lege are considered conference centers for the purposes of this
15 act.

16 SEC. 518. (1) AS USED IN THIS SECTION:

17 (A) "MOTORSPORTS ENTERTAINMENT COMPLEX" MEANS A
18 CLOSED-COURSE MOTORSPORTS FACILITY AND ITS ANCILLARY GROUNDS THAT
19 COMPLY WITH ALL OF THE FOLLOWING:

20 (i) HAS AT LEAST 70,000 FIXED SEATS FOR RACE PATRONS.

21 (ii) HAS AT LEAST 7 SCHEDULED DAYS OF MOTORSPORTS EVENTS
22 EACH CALENDAR YEAR.

23 (iii) HAS AT LEAST 4 MOTORSPORTS EVENTS EACH CALENDAR YEAR.

24 (iv) SERVES FOOD AND BEVERAGES AT THE FACILITY DURING SANC-
25 TIONED EVENTS EACH CALENDAR YEAR THROUGH CONCESSION OUTLETS, A
26 MAJORITY OF WHICH ARE STAFFED BY INDIVIDUALS WHO REPRESENT OR ARE
27 MEMBERS OF 1 OR MORE NONPROFIT CIVIC OR CHARITABLE ORGANIZATIONS

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1 THAT DIRECTLY FINANCIALLY BENEFIT FROM THE CONCESSION OUTLETS'
2 SALES.

3 (v) ENGAGES IN TOURISM PROMOTION.

4 (vi) HAS LOCATED ON THE PROPERTY EXHIBITIONS OF MOTORSPORTS
5 HISTORY, EVENTS, OR VEHICLES.

6 (B) "MOTORSPORTS EVENT" MEANS A MOTORSPORTS RACE AND ITS
7 ANCILLARY ACTIVITIES THAT HAVE BEEN SANCTIONED BY A SANCTIONING
8 BODY.

9 (C) "OWNER" MEANS A PERSON WHO OWNS AND OPERATES A MOTOR-
10 SPORTS ENTERTAINMENT COMPLEX.

11 (D) "SANCTIONING BODY" MEANS THE AMERICAN MOTORCYCLE ASSOCI-
12 ATION (AMA); AUTO RACING CLUB OF AMERICA (ARCA); CHAMPIONSHIP
13 AUTO RACING TEAMS (CART); GRAND AMERICAN ROAD RACING ASSOCIATION
14 (GRAND AM); INDY RACING LEAGUE (IRL); NATIONAL ASSOCIATION FOR
15 STOCK CAR AUTO RACING (NASCAR); NATION HOT ROD ASSOCIATION
16 (NHRA); PROFESSIONAL SPORTSCAR RACING (PSR); SPORTS CAR CLUB OF
17 AMERICA (SCCA); UNITED STATES AUTO CLUB (USAC); OR ANY SUCCESSOR
18 ORGANIZATION OR ANY OTHER NATIONALLY OR INTERNATIONALLY RECOG-
19 NIZED GOVERNING BODY OF MOTORSPORTS THAT ESTABLISHES AN ANNUAL
20 SCHEDULE OF MOTORSPORTS EVENTS AND GRANTS RIGHTS TO CONDUCT THE
21 EVENTS, THAT HAS ESTABLISHED AND ADMINISTERS RULES AND REGULA-
22 TIONS GOVERNING ALL PARTICIPANTS INVOLVED IN THE EVENTS AND ALL
23 PERSONS CONDUCTING THE EVENTS, AND THAT REQUIRES CERTAIN LIABIL-
24 ITY ASSURANCES, INCLUDING INSURANCE.

25 (2) FOR A PERIOD OF TIME NOT TO EXCEED 7 CONSECUTIVE DAYS
26 DURING WHICH PUBLIC ACCESS IS PERMITTED TO A MOTORSPORTS
27 ENTERTAINMENT COMPLEX IN CONNECTION WITH A MOTORSPORTS EVENT,

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1 MEMBERS OF THE GENERAL PUBLIC AT LEAST 21 YEARS OR OLDER MAY
2 BRING ALCOHOLIC LIQUOR NOT PURCHASED AT THE MOTORSPORTS ENTER-
3 TAINMENT COMPLEX INTO THE MOTORSPORTS ENTERTAINMENT COMPLEX AND
4 POSSESS AND CONSUME THAT ALCOHOLIC LIQUOR. POSSESSION AND CON-
5 SUMPTION OF ALCOHOLIC LIQUOR UNDER THIS SECTION ARE ALLOWED IN
6 PORTIONS OF THE MOTORSPORTS ENTERTAINMENT COMPLEX OPEN TO THE
7 GENERAL PUBLIC THAT ARE ALSO PART OF THE LICENSED PREMISES OF A
8 RETAIL LICENSEE ONLY UNDER BOTH OF THE FOLLOWING CIRCUMSTANCES:

9 (A) THE LICENSED PREMISES ARE LOCATED WITHIN THE MOTORSPORTS
10 ENTERTAINMENT COMPLEX.

11 (B) THE RETAIL LICENSEE HOLDS A LICENSE FOR CONSUMPTION ON
12 THE LICENSED PREMISES OF THE MOTORSPORTS ENTERTAINMENT COMPLEX.

13 (3) A PERSON HOLDING A LICENSE FOR THE SALE OF ALCOHOLIC
14 LIQUOR FOR CONSUMPTION ON THE PREMISES AT A MOTORSPORTS ENTER-
15 TAINMENT COMPLEX IS SUBJECT TO THE CIVIL LIABILITY PROVISIONS OF
16 SECTION 801 IF THE CIVIL ACTION IS BROUGHT BY OR ON BEHALF OF AN
17 INDIVIDUAL WHO SUFFERS DAMAGE OR IS PERSONALLY INJURED BY A MINOR
18 OR VISIBLY INTOXICATED PERSON BY REASON OF THE UNLAWFUL CONSUMP-
19 TION OF ALCOHOLIC LIQUOR ON THE LICENSED PREMISES BY THAT MINOR
20 OR VISIBLY INTOXICATED PERSON IF THE UNLAWFUL CONSUMPTION IS
21 PROVEN TO BE A PROXIMATE CAUSE OF THE DAMAGE, INJURY, OR DEATH OF
22 THE INDIVIDUAL, WHETHER THE ALCOHOLIC LIQUOR WAS SOLD OR FUR-
23 NISHED BY THE LICENSEE OR WAS BROUGHT ONTO THE LICENSED PREMISES
24 UNDER SUBSECTION (2).

25 Sec. 531. (1) A public license shall not be granted for the
26 sale of alcoholic liquor for consumption on the premises in
27 excess of 1 license for each 1,500 of population or major

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1 fraction thereof. On-premises escrowed licenses issued under
2 this subsection may be transferred subject to local legislative
3 approval under section 501(2) to an applicant whose proposed
4 operation is located within any local governmental unit in a
5 county with a population of under 500,000 or a county with a pop-
6 ulation of over 700,000 in which the escrowed license was
7 located. If the local governmental unit within which the former
8 licensee's premises were located spans more than 1 county, an
9 escrowed license is available subject to local legislative
10 approval under section 501(2) to an applicant whose proposed
11 operation is located within any local governmental unit in either
12 county. If an escrowed license is activated within a local gov-
13 ernmental unit other than that local governmental unit within
14 which the escrowed license was originally issued, the commission
15 shall count that activated license against the local governmental
16 unit originally issuing the license. This quota does not bar the
17 right of an existing licensee to renew a license or transfer the
18 license and does not bar the right of an on-premise licensee of
19 any class to reclassify to another class of on-premises license
20 in a manner not in violation of law or this act, subject to the
21 consent of the commission. The upgrading of a license resulting
22 from a request under this subsection shall be approved by the
23 local governmental unit having jurisdiction.

24 (2) In a resort area, the commission may issue 1 or more
25 licenses for a period not to exceed 12 months without regard to a
26 limitation because of population, but not in excess of 550, and
27 with respect to the resort license the commission, by rule, shall

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1 define and classify resort seasons by months and may issue 1 or
2 more licenses for resort seasons without regard to the calendar
3 year or licensing year.

4 (3) In addition to the resort licenses authorized in subsec-
5 tion (2), the commission may issue not more than 10 additional
6 licenses per year for the years ~~2001~~ 2003 and ~~2002~~ 2004 to
7 establishments whose business and operation, as determined by the
8 commission, is designed to attract and accommodate tourists and
9 visitors to the resort area, whose primary purpose is not for the
10 sale of alcoholic liquor, and whose capital investment in real
11 property, leasehold improvement, and fixtures for the premises to
12 be licensed is \$75,000.00 or more. Further, the commission shall
13 issue 1 license under this subsection for the years ~~2001~~ 2003
14 and ~~2002~~ 2004 to an applicant located in a rural area that has
15 a poverty rate, as defined by the latest decennial census,
16 greater than the statewide average, or that is located in a rural
17 area that has an unemployment rate higher than the statewide
18 average for 3 of the 5 preceding years. In counties having a
19 population of less than 50,000, as determined by the last federal
20 decennial census or as determined pursuant to subsection (11) and
21 subject to subsection (16) in the case of a class A hotel or a
22 class B hotel, the commission shall not require the establish-
23 ments to have dining facilities to seat more than 50 persons.
24 The commission may cancel the license if the resort is no longer
25 active or no longer qualifies for the license. Before January 16
26 of each year the commission shall transmit to the legislature a
27 report giving details as to the number of applications received

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1 under this subsection; the number of licenses granted and to
2 whom; the number of applications rejected and the reasons; and
3 the number of the licenses revoked, suspended, or other disci-
4 plinary action taken and against whom and the grounds for revoca-
5 tion, suspension, or disciplinary action.

6 (4) In addition to any licenses for the sale of alcoholic
7 liquor for consumption on the premises that may be available in
8 the local governmental unit under subsection (1) and the resort
9 licenses authorized in subsections (2) and (3), the commission
10 may issue not more than 20 resort economic development licenses
11 per year for the years ~~2001~~ 2003 and ~~2002~~ 2004. A person is
12 eligible to apply for a resort economic development license under
13 this subsection upon submitting an application to the commission
14 and demonstrating all of the following:

15 (a) The establishment's business and operation, as deter-
16 mined by the commission, is designed to attract and accommodate
17 tourists and visitors to the resort area.

18 (b) The establishment's primary business is not the sale of
19 alcoholic liquor.

20 (c) The capital investment in real property, leasehold
21 improvement, fixtures, and inventory for the premises to be
22 licensed is in excess of \$1,500,000.00.

23 (d) The establishment does not allow or permit casino gambli-
24 ng on the premises.

25 (5) In governmental units having a population of 50,000 per-
26 sons or less, as determined by the last federal decennial census
27 or as determined pursuant to subsection (11), in which the quota

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1 of specially designated distributor licenses, as provided by
2 commission rule, has been exhausted, the commission may issue not
3 more than a total of 10 additional specially designated distribu-
4 tor licenses per year for the years ~~2001~~ 2003 and ~~2002~~ 2004
5 to established merchants whose business and operation, as deter-
6 mined by the commission, is designed to attract and accommodate
7 tourists and visitors to the resort area. A specially designated
8 distributor license issued pursuant to this subsection may be
9 issued at a location within 2,640 feet of existing specially des-
10 ignated distributor license locations. A specially designated
11 distributor license issued pursuant to this subsection shall not
12 bar another specially designated distributor licensee from trans-
13 ferring location to within 2,640 feet of said licensed location.
14 A specially designated distributor license issued pursuant to ~~R~~
15 ~~436.1141 of the Michigan administrative code~~ SECTION 533 may be
16 located within 2,640 feet of a specially designated distributor
17 license issued pursuant to this subsection.

18 (6) In addition to any licenses for the sale of alcoholic
19 liquor for consumption on the premises that may be available in
20 the local governmental unit under subsection (1), and the resort
21 or resort economic development licenses authorized in subsections
22 (2), (3), and (4), and notwithstanding section 519, the commis-
23 sion may issue not more than 5 additional special purpose
24 licenses in any calendar year for the sale of beer and wine for
25 consumption on the premises. A special purpose license issued
26 pursuant to this subsection shall be issued only for events which
27 are to be held from May 1 to September 30, are artistic in

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1 nature, and which are to be held on the campus of a public
2 university with an enrollment of 30,000 or more students. A spe-
3 cial purpose license shall be valid for 30 days or for the dura-
4 tion of the event for which it is issued, whichever is less. The
5 fee for a special purpose license shall be \$50.00. A special
6 purpose license may be issued only to a corporation which is all
7 of the following:

8 (a) Is a nonprofit corporation organized pursuant to the
9 nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
10 450.3192.

11 (b) Has a board of directors constituted of members of whom
12 half are elected by the public university at which the event is
13 scheduled and half are elected by the local governmental unit.

14 (c) Has been in continuous existence for not less than 6
15 years.

16 (7) Notwithstanding the local legislative body approval pro-
17 vision of section 501(2) and notwithstanding the provisions of
18 section 519, the commission may issue, without regard to the
19 quota provisions of subsection (1) and with the approval of the
20 governing board of the university, either a tavern or class C
21 license which may be used only for regularly scheduled events at
22 a public university's established outdoor program or festival at
23 a facility on the campus of a public university having a head
24 count enrollment of 10,000 students or more. A license issued
25 under this subsection may only be issued to the governing board
26 of a public university, a person that is the lessee or
27 concessionaire of the governing board of the university, or

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1 both. A license issued under this subsection is not transferable
2 as to ownership or location. A license issued under this subsec-
3 tion may not be issued at an outdoor stadium customarily used for
4 intercollegiate athletic events.

5 (8) In issuing a resort or resort economic development
6 license under subsection (3), (4), or (5), the commission shall
7 consider economic development factors of the area in the issuance
8 of licenses to establishments designed to stimulate and promote
9 the resort and tourist industry. The commission shall not trans-
10 fer a resort or resort economic development license issued under
11 subsection (3), (4), or (5) to another location. If the licensee
12 goes out of business the license shall be surrendered to the
13 commission.

14 (9) The limitations and quotas of this section are not
15 applicable to the issuance of a new license to a veteran of the
16 armed forces of the United States who was honorably discharged or
17 released under honorable conditions from the armed forces of the
18 United States and who had by forced sale disposed of a similar
19 license within 90 days before or after entering or while serving
20 in the armed forces of the United States, as a part of the
21 person's preparation for that service if the application for a
22 new license is made for the same governmental unit in which the
23 previous license was issued and within 60 days after the dis-
24 charge of the applicant from the armed forces of the United
25 States.

26 (10) The limitations and quotas of this section shall not be
27 applicable to the issuance of a new license or the renewal of an

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1 existing license where the property or establishment to be
2 licensed is situated in or on land on which an airport owned by a
3 county or in which a county has an interest is situated.

4 (11) For purposes of implementing this section a special
5 state census of a local governmental unit may be taken at the
6 expense of the local governmental unit by the federal bureau of
7 census or the secretary of state under section 6 of the home rule
8 city act, 1909 PA 279, MCL 117.6. The special census shall be
9 initiated by resolution of the governing body of the local gov-
10 ernmental unit involved. The secretary of state may promulgate
11 additional rules necessary for implementing this section pursuant
12 to the administrative procedures act of 1969, 1969 PA 306,
13 MCL 24.201 to 24.328.

14 (12) Before granting an approval as required in
15 section 501(2) for a license to be issued under subsection (2),
16 (3), or (4), a local legislative body shall disclose the avail-
17 ability of transferable licenses held in escrow for more than 1
18 licensing year within that respective local governmental unit.
19 Public notice of the meeting to consider the granting of the
20 license by the local governmental unit shall be made 2 weeks
21 before the meeting.

22 (13) The person signing the application for an on-premise
23 resort or resort economic development license shall state and
24 verify that he or she attempted to secure an on-premise escrowed
25 or quota license and that, to the best of his or her knowledge,
26 an on-premise escrowed or quota license is not readily available
27 within [1 OF THE FOLLOWING:

(A) IN A COUNTY WITH A POPULATION UNDER 500,000 OR OVER 700,000, THE
COUNTY IN WHICH THE APPLICANT FOR THE ON-PREMISE RESORT OR RESORT
ECONOMIC DEVELOPMENT LICENSE PROPOSES TO OPERATE.

(B) IN A COUNTY NOT DESCRIBED IN SUBDIVISION (A),] the local
governmental unit in which the applicant for the
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1 on-premise resort or resort economic development license proposes
2 to operate.

3 (14) The commission shall not issue an on-premise resort or
4 resort economic development license if the local governmental
5 unit [OR COUNTY, AS APPROPRIATE,] within which the resort or resort
6 economic development
7 license applicant proposes to operate has not issued all
8 on-premise licenses available under subsection (1) or if an
9 on-premise escrowed license exists and is readily available
10 within the local governmental unit in which the applicant for the
11 on-premise resort or resort economic development license proposes
12 to operate. The commission may waive the provisions of this sub-
13 section upon a showing of good cause.

14 (15) The commission shall annually report to the legislature
15 the names of the businesses issued licenses under this section
16 and their locations.

17 (16) The commission shall not require a class A hotel or a
18 class B hotel licensed pursuant to subsection (2), (3), or (4) to
19 provide food service to registered guests or to the public.

20 (17) Subject to the limitation and quotas of subsection (1)
21 and to local legislative approval under section 501(2), the com-
22 mission may approve the transfer of ownership and location of an
23 on-premises escrowed license within the same county to a class
24 G-1 or class G-2 license or may approve the reclassification of
25 an existing on-premises license at the location to be licensed to
26 a class G-1 license or to a class G-2 license, subject to subsec-
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1 created under subsection (3) or (4) may not be issued as, or
2 reclassified to, a class G-1 or class G-2 license.

3 (18) As used in this section:

4 (a) "Escrowed license" means a license in which the rights
5 of the licensee in the license or to the renewal of the license
6 are still in existence and are subject to renewal and activation
7 in the manner provided for in R 436.1107 of the Michigan adminis-
8 trative code.

9 (b) "Readily available" means available under a standard of
10 economic feasibility, as applied to the specific circumstances of
11 the applicant, that includes, but is not limited to, the
12 following:

13 (i) The fair market value of the license, if determinable.

14 (ii) The size and scope of the proposed operation.

15 (iii) The existence of mandatory contractual restrictions or
16 inclusions attached to the sale of the license.

17 Sec. 701. (1) Alcoholic liquor shall not be sold or fur-
18 nished to a minor. Except as otherwise provided in
19 subsection (2) and subject to ~~subsection~~ SUBSECTIONS (4), (5),
20 AND (6), a person who knowingly sells or furnishes alcoholic
21 liquor to a minor, or who fails to make diligent inquiry as to
22 whether the person is a minor, is guilty of a misdemeanor. A
23 retail licensee or a retail licensee's clerk, agent, or employee
24 who violates this subsection shall be punished in the manner pro-
25 vided for licensees in section 909 EXCEPT THAT IF THE VIOLATION
26 IS THE RESULT OF AN UNDERCOVER OPERATION IN WHICH THE MINOR
27 RECEIVED ALCOHOLIC LIQUOR UNDER THE DIRECTION OF THE STATE

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1 POLICE, THE COMMISSION, OR A LOCAL POLICE AGENCY AS PART OF AN
2 ENFORCEMENT ACTION, THE RETAIL LICENSEE'S CLERK, AGENT, OR
3 EMPLOYEE IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE
4 ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$100.00.
5 ~~Notwithstanding section 909 and except~~ EXCEPT as otherwise pro-
6 vided in subsection (2), a person who is not a retail licensee or
7 a retail licensee's clerk, agent, or employee and who violates
8 this subsection ~~shall be fined~~ IS GUILTY OF A MISDEMEANOR PUN-
9 ISHABLE BY A FINE OF NOT MORE THAN \$1,000.00 and ~~may be sen-~~
10 ~~tenced to~~ imprisonment for ~~up to~~ NOT MORE THAN 60 days for a
11 first offense, ~~shall be fined~~ A FINE OF NOT MORE THAN \$2,500.00
12 and ~~shall be sentenced to~~ imprisonment for ~~up to~~ NOT MORE
13 THAN 90 days for a second or subsequent offense, and may be
14 ordered to perform community service. A suitable sign describing
15 the content of this section and the penalties for its violation
16 shall be posted in a conspicuous place in each room where alco-
17 holic liquor is sold. The signs shall be approved and furnished
18 by the commission.

19 (2) A person who is not a retail licensee or the retail
20 licensee's clerk, agent, or employee and who violates
21 subsection (1) is guilty of a felony, punishable by imprisonment
22 for not more than 10 years ~~—~~ or a fine of not more than
23 \$5,000.00, or both, if the subsequent consumption of the alco-
24 holic liquor by the minor is a direct and substantial cause of
25 that person's death or an accidental injury that causes that
26 person's death.

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1 (3) If a violation occurs in an establishment that is
2 licensed by the commission for consumption of alcoholic liquor on
3 the licensed premises, a person who is a licensee or the clerk,
4 agent, or employee of a licensee shall not be charged with a vio-
5 lation of subsection (1) or section 801(2) unless the licensee or
6 the clerk, agent, or employee of the licensee knew or should have
7 reasonably known with the exercise of due diligence that a person
8 less than 21 years of age possessed or consumed alcoholic liquor
9 on the licensed premises and the licensee or clerk, agent, or
10 employee of the licensee failed to take immediate corrective
11 action.

12 (4) If the enforcing agency involved in the violation is the
13 state police or a local police agency, a licensee shall not be
14 charged with a violation of subsection (1) or section 801(2)
15 unless ~~enforcement~~ ALL OF THE FOLLOWING OCCUR, IF APPLICABLE:

16 (A) ENFORCEMENT action ~~under section 703~~ is taken against
17 the minor who purchased or attempted to purchase, consumed or
18 attempted to consume, or possessed or attempted to possess alco-
19 holic liquor. ~~and, if applicable, enforcement~~

20 (B) ENFORCEMENT action is taken under this section against
21 the person 21 years of age or older WHO IS NOT THE RETAIL
22 LICENSEE OR THE RETAIL LICENSEE'S CLERK, AGENT, OR EMPLOYEE who
23 sold or furnished the alcoholic liquor to the minor.

24 (C) ENFORCEMENT ACTION UNDER THIS SECTION IS TAKEN AGAINST
25 THE CLERK, AGENT, OR EMPLOYEE WHO DIRECTLY SOLD OR FURNISHED
26 ALCOHOLIC LIQUOR TO THE MINOR.

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1 (5) If the enforcing agency is the commission AND AN
2 APPEARANCE TICKET OR CIVIL INFRACTION CITATION HAS NOT BEEN
3 ISSUED, then the commission shall recommend to a local law
4 enforcement agency that enforcement action be taken against a
5 violator of this section or section 703 who is not a licensee.
6 However, ~~this~~ subsection (4) does not apply ~~under any of the~~
7 ~~following circumstances:~~ ~~(a) The person~~ IF THE MINOR against
8 whom enforcement action is taken under section 703, THE CLERK,
9 AGENT, OR EMPLOYEE OF THE LICENSEE WHO DIRECTLY SOLD OR FURNISHED
10 ALCOHOLIC LIQUOR TO THE MINOR, or the person 21 years of age or
11 older who sold or furnished alcoholic liquor to the minor is not
12 alive or is not present in this state at the time the licensee is
13 charged. SUBSECTION (4)(A) DOES NOT APPLY UNDER EITHER OF THE
14 FOLLOWING CIRCUMSTANCES:

15 (A) ~~(b)~~ The violation of subsection (1) is the result of
16 an undercover operation in which the minor purchased or received
17 alcoholic liquor under the direction of the person's employer and
18 with the prior approval of the local prosecutor's office as part
19 of an employer-sponsored internal enforcement action.

20 (B) ~~(c)~~ The violation of subsection (1) is the result of
21 an undercover operation in which the minor purchased or received
22 alcoholic liquor under the direction of the state police, the
23 commission, or a local police agency as part of an enforcement
24 action. ~~However, any~~

25 (6) ANY initial or contemporaneous purchase or receipt of
26 alcoholic liquor by the minor ~~shall~~ UNDER SUBSECTION (5)(A) OR
27 (B) MUST have been under the direction of the state police, the

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1 commission, or the local police agency and ~~shall~~ MUST have been
2 part of the undercover operation.

3 (7) ~~(5)~~ If a minor participates in an undercover operation
4 in which the minor is to purchase or receive alcoholic liquor
5 under the supervision of a law enforcement agency, his or her
6 parents or legal guardian shall consent to the participation if
7 that person is less than 18 years of age.

8 (8) ~~(6)~~ In an action for the violation of this section,
9 proof that the defendant or the defendant's agent or employee
10 demanded and was shown, before furnishing alcoholic liquor to a
11 minor, a motor vehicle operator's or chauffeur's license or a
12 registration certificate issued by the federal selective service,
13 or other bona fide documentary evidence of the age and identity
14 of that person, shall be a defense to an action brought under
15 this section.

16 (9) ~~(7)~~ The commission shall provide, on an annual basis,
17 a written report to the department of state police as to the
18 number of actions heard by the commission involving violations of
19 this section and section 801(2). The report shall include the
20 disposition of each action and contain figures representing the
21 following categories:

22 (a) Decoy operations.

23 (b) Off-premises violations.

24 (c) On-premises violations.

25 (d) Repeat offenses within the 3 years preceding the date of
26 that report.

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1 (10) ~~-(8)-~~ As used in this section:

2 (a) "Corrective action" means action taken by a licensee or
3 a clerk, agent, or employee of a licensee designed to prevent a
4 minor from further possessing or consuming alcoholic liquor on
5 the licensed premises. Corrective action includes, but is not
6 limited to, contacting a law enforcement agency and ejecting the
7 minor and any other person suspected of aiding and abetting the
8 minor.

9 (b) "Diligent inquiry" means a diligent good faith effort to
10 determine the age of a person, which includes at least an exami-
11 nation of an official Michigan operator's or chauffeur's license,
12 an official Michigan personal identification card, or any other
13 bona fide picture identification which establishes the identity
14 and age of the person.

15 Sec. 705. A peace officer or law enforcement officer
16 described under section 201 or an inspector of the commission who
17 witnesses a violation of section 701(1) OR 703, or a local ordi-
18 nance corresponding to section 701(1) OR 703, may stop and detain
19 a person and obtain satisfactory identification, seize illegally
20 possessed alcoholic liquor, and issue an appearance ticket as
21 prescribed in section ~~9b-~~ 9C of chapter IV of the code of crimi-
22 nal procedure, 1927 PA 175, MCL ~~764.9b-~~ 764.9C.

23 Sec. 905. (1) Notwithstanding section 903, if a retail
24 licensee or a retail licensee's clerk, agent, or employee vio-
25 lates this act by selling or furnishing alcoholic liquor to a
26 minor, or by allowing a minor to consume alcoholic liquor or
27 possess alcoholic liquor for personal consumption on the licensed

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1 premises, and if the enforcing agency involved in the prosecution
2 of the violation is the state police or a local police agency,
3 the commission shall not take any action under section 903 to
4 suspend or revoke the licensee's license or assess ~~a penalty~~ AN
5 ADMINISTRATIVE FINE against the licensee unless ~~enforcement~~ ALL
6 OF THE FOLLOWING OCCUR, IF APPLICABLE:

7 (A) ENFORCEMENT action is taken against the minor who pur-
8 chased, consumed, or received the alcoholic liquor from the
9 retail licensee or the retail licensee's clerk, agent, or
10 employee. ~~and, if applicable, enforcement~~

11 (B) ENFORCEMENT action is taken under ~~this~~ section 701
12 against the person 21 years of age or older THAT IS NOT THE
13 RETAIL LICENSEE OR THE RETAIL LICENSEE'S CLERK, AGENT, OR
14 EMPLOYEE BUT who sold or furnished the alcoholic liquor to the
15 minor.

16 (C) ENFORCEMENT ACTION IS TAKEN UNDER SECTION 701 AGAINST
17 THE RETAIL LICENSEE'S CLERK, AGENT, OR EMPLOYEE.

18 (2) Subsection (1) does not apply ~~under either of the fol-~~
19 ~~lowing circumstances:~~ ~~(a) The~~ IF THE enforcing agent involved
20 in the prosecution is a commission inspector rather than a police
21 agency.

22 (3) ~~(b) The~~ SUBSECTION (1)(A) DOES NOT APPLY IF THE prose-
23 cution of the violation is the result of an undercover operation
24 in which the minor who purchased, consumed, or received the alco-
25 holic liquor acted under the direction of the state police or a
26 local police agency as part of the enforcement action and such

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1 enforcement action is otherwise in compliance with section
2 701(4), (5), AND (6).

3 Sec. 1021. (1) A regulation shall not be made requiring the
4 purchase or serving of food with the purchase of alcoholic
5 liquor. The commission shall not require a class A hotel or
6 class B hotel to provide food services to registered guests or to
7 the public.

8 (2) Alcoholic liquor sold by vendors for consumption on the
9 premises shall not be removed from those premises.

10 (3) NOTHING IN THIS ACT AND RULES PROMULGATED UNDER THIS ACT
11 SHALL PREVENT A CLASS A OR B HOTEL DESIGNED TO ATTRACT AND ACCOM-
12 MODATE TOURISTS AND VISITORS IN A RESORT AREA FROM ALLOWING ITS
13 INVITEES OR GUESTS TO POSSESS OR CONSUME, OR BOTH, ON OR ABOUT
14 ITS PREMISES, ALCOHOLIC LIQUOR PURCHASED BY THE INVITEE OR GUEST
15 FROM AN OFF-PREMISES RETAILER, AND DOES NOT PREVENT A GUEST OR
16 INVITEE FROM ENTERING AND EXITING THE LICENSED PREMISES WITH
17 ALCOHOLIC LIQUOR PURCHASED FROM AN OFF-PREMISES RETAILER.

18 Sec. 1025. (1) A vendor shall not give away any alcoholic
19 liquor of any kind or description at any time in connection with
20 his or her business, except manufacturers for consumption on the
21 premises only.

22 (2) Subsection (1) does not prevent ~~either~~ ANY of the
23 following:

24 (a) A vendor of spirits, brewer, mixed spirit drink manufac-
25 turer, wine maker, small wine maker, outstate seller of beer,
26 outstate seller of wine, or outstate seller of mixed spirit
27 drink, or a bona fide market research organization retained by 1

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1 of the persons named in this subsection, from conducting
2 samplings or tastings of an alcoholic liquor product before it is
3 approved for sale in this state, if the sampling or tasting is
4 conducted pursuant to prior written approval of the commission.

5 (b) A person from conducting of any sampling or tasting
6 authorized by rule of the commission.

7 (C) A CLASS A OR B HOTEL DESIGNED TO ATTRACT AND ACCOMMODATE
8 TOURISTS AND VISITORS IN A RESORT AREA FROM GIVING AWAY ALCOHOLIC
9 LIQUOR TO AN INVITEE OR GUEST IN CONNECTION WITH A BUSINESS EVENT
10 OR AS A PART OF A ROOM SPECIAL OR PROMOTION FOR OVERNIGHT
11 ACCOMMODATIONS.

12 (3) A vendor shall not sell an alcoholic liquor to a person
13 in an intoxicated condition.