

SENATE BILL No. 563

June 10, 2003, Introduced by Senator BARCIA and referred to the Committee on Gaming and Casino Oversight.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending sections 217, 903, and 1023 (MCL 436.1217, 436.1903, and 436.2023), section 903 as amended by 2000 PA 431.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 217. (1) The commission may make investigations that
2 it considers proper in the administration of this act and the
3 rules promulgated under this act concerning alcoholic liquor,
4 ~~or~~ the manufacture, distribution, or sale of alcoholic liquor,
5 ~~or~~ the collection of taxes on alcoholic liquor, **or video**
6 **lottery violations under article 2 of the**
7 **McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, or**
8 **rules promulgated under that article.**

9 (2) A licensee shall make the licensed premises available for
10 inspection and search by a commission investigator or law

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1 enforcement officer empowered to enforce the commission's rules
2 and this act **or article 2 of the**
3 **McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, and**
4 **rules under that article** during regular business hours or when
5 the licensed premises are occupied by the licensee or a clerk,
6 servant, agent, or employee of the licensee. Evidence of a
7 violation ~~of this act or rules promulgated under this act~~
8 discovered under this subsection may be seized and used in an
9 administrative or court proceeding.

10 (3) The commission or ~~a duly~~ **an** authorized agent of the
11 commission may examine or copy the books, records, or papers of a
12 person relative to a requirement pertaining to this act, access
13 to which has been obtained pursuant to this section.

14 (4) A member of the commission or ~~a duly~~ **an** authorized
15 agent of the commission may issue a subpoena requiring a person
16 to appear before the commission or its ~~duly~~ authorized agent at
17 any reasonable time and place, to be examined with reference to
18 any matter within the scope of the inquiry or investigation being
19 conducted by the commission, and to produce any books, records,
20 or papers pertaining to the question involved.

21 (5) A member of the commission or ~~a duly~~ **an** authorized
22 agent of the commission may administer an oath or affirmation to
23 a witness in ~~any~~ **a** matter before the commission, certify to
24 official acts, and take depositions.

25 (6) In case of disobedience of a subpoena, the commission or
26 its ~~duly~~ authorized agent may invoke the aid of ~~any~~ **a** circuit
27 court of the state to compel the attendance and testimony of

1 witnesses and the production of books, records, and papers
2 pertaining to the question involved. A circuit court of this
3 state within the jurisdiction of which the inquiry is conducted
4 may, in case of contumacy or refusal to obey a subpoena, issue an
5 order requiring the person to appear before the commission or
6 ~~its duty~~ **an** authorized agent **of the commission**, to produce
7 books, records, and papers if so ordered, and to give evidence
8 regarding the matter in question. Failure to obey the order of
9 the court may be punished by the court as a contempt of court.

10 (7) The fees of witnesses required to appear before the
11 commission shall be the same as ~~these~~ **fees** allowed to witnesses
12 in the circuit courts and shall be paid by the commission.

13 (8) A sheriff's department or police department, ~~shall,~~
14 upon request of the commission, ~~cause to be~~ **shall serve or have**
15 served a subpoena that is directed to a person located within the
16 jurisdiction of the sheriff's department or police department. A
17 fee shall not be charged for this service by the sheriff's
18 department or police department. Subpoenas may also be served by
19 an investigator of the commission.

20 (9) The commission shall adopt a suitable seal, of which all
21 courts of the state shall take judicial notice, and all
22 proceedings, orders, licenses, and official acts of the
23 commission shall be authenticated by that seal. Certified copies
24 of the orders and records of the commission ~~shall be~~ **are** prima
25 facie evidence of the acts of the commission in ~~any~~ **a** court of
26 this state.

27 Sec. 903. (1) The commission or ~~any~~ **a** commissioner or

1 ~~duly~~ authorized agent of the commission designated by the
2 chairperson of the commission, upon due notice and proper
3 hearing, may suspend or revoke ~~any~~ a license ~~upon~~ for a
4 violation of this act or ~~any of the rules~~ a rule promulgated by
5 the commission under this act. **The commission may suspend or**
6 **revoke the license of a licensee that has a video lottery agent**
7 **license under article 2 of the**
8 **McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, for**
9 **a violation of article 2 of the**
10 **McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, or**
11 **a rule promulgated under that article.** The commission or ~~any~~ a
12 commissioner or ~~duly~~ authorized agent of the commission
13 designated by the chairperson of the commission ~~—~~ may assess a
14 penalty of not more than \$300.00 for each violation, ~~of this act~~
15 ~~or rules promulgated under this act,~~ or not more than \$1,000.00
16 for each violation of section 801(2), in addition to or ~~in lieu~~
17 **instead** of revocation or suspension of the license, which penalty
18 shall be paid to the commission, ~~and~~ deposited with the state
19 treasurer, and ~~shall be~~ credited to the general fund of the
20 state. The commission shall hold a hearing and order the
21 suspension or revocation of a license if the licensee has been
22 found liable for 3 or more separate violations of section 801(2)
23 ~~which violations~~ **that** occurred on different occasions within a
24 24-month period unless ~~such~~ **the** violations for the sale,
25 furnishing, or giving **of** alcoholic liquor to a minor were
26 discovered by the licensee and disclosed to an appropriate law
27 enforcement agency immediately upon discovery.

1 (2) The commission shall provide a procedure by which a
2 licensee who is aggrieved by ~~any~~ a penalty imposed under
3 subsection (1) ~~and any~~ or a suspension or revocation of a
4 license ordered by the commission, a commissioner, or ~~a duly~~ an
5 authorized agent of the commission may request a hearing ~~for the~~
6 ~~purpose of presenting any~~ **to present** facts or reasons to the
7 commission as to why the penalty, suspension, or revocation
8 should be modified or rescinded. ~~Any such~~ **A request for a**
9 **hearing under this subsection** shall be in writing and accompanied
10 by a fee of \$25.00. The commission, after reviewing the record
11 made before a commissioner or ~~a duly~~ an authorized agent of the
12 commission, may allow or refuse to allow the hearing in
13 accordance with the commission's rules. The right to a hearing
14 provided in this subsection, however, shall not be interpreted by
15 ~~any~~ a court as curtailing, removing, or annulling the right of
16 the commission to suspend or revoke licenses as provided ~~for~~ in
17 this act. A licensee does not have a right of appeal from the
18 final determination of the commission, except by leave of the
19 circuit court. Notice of the order of suspension or revocation
20 of a license or of the assessment of a penalty, or both, shall be
21 given in the manner prescribed by the commission. The suspension
22 or revocation of a license or the assessment of a penalty, or
23 both, by the commission or ~~a duly~~ an authorized agent of the
24 commission does not prohibit the institution of a criminal
25 prosecution for a violation of this act. The institution of a
26 criminal prosecution for a violation of this act or the acquittal
27 or conviction of a person for a violation of this act does not

1 prevent the suspension or revocation of a license or the
2 assessment of a penalty, or both, by the commission. In a
3 hearing for the suspension or revocation of a license issued
4 under this act, proof that the defendant licensee or an agent or
5 employee of the licensee demanded and was shown, before
6 furnishing any alcoholic liquor to a minor, a motor vehicle
7 operator or chauffeur license or a registration certificate
8 issued by the federal selective service, or other bona fide
9 documentary evidence of majority and identity of the person, may
10 be offered as evidence in a defense to a proceeding for the
11 suspension or revocation of a license issued under this act. A
12 licensee who has reason to believe that a minor has used
13 fraudulent identification to purchase alcoholic liquor in
14 violation of section 703 shall file a police report concerning
15 the violation with a local law enforcement agency and shall also
16 present the alleged fraudulent identification to the local law
17 enforcement agency at the time of filing the report if the
18 identification is in the possession of the licensee. The
19 commission may promulgate rules pursuant to the administrative
20 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328,
21 regarding ~~the utilization~~ **use** by licensees of equipment
22 designed to detect altered or forged driver licenses, state
23 identification cards, and other forms of identification.

24 (3) In addition to the hearing commissioners provided for in
25 section 209, the chairperson of the commission may designate not
26 more than 2 ~~duly~~ authorized agents to hear violation cases. A
27 person appointed under this subsection shall be a member in good

1 standing of the state bar of Michigan.

2 (4) ~~A duly~~ **An** authorized agent who has been designated by
3 the chairperson ~~pursuant to~~ **under** subsection (3) ~~shall have~~
4 **has**, in ~~the~~ hearing ~~of~~ violation cases, the same authority
5 and responsibility as ~~does~~ a hearing commissioner under this
6 act and the rules promulgated under this act.

7 (5) ~~A duly~~ **An** authorized agent who has been designated by
8 the chairperson ~~pursuant to~~ **under** subsection (3) shall be
9 ineligible for appointment to the commission for a period of
10 1 year after the person ceases to serve as ~~a duly~~ **an** authorized
11 agent.

12 Sec. 1023. (1) The commission shall not prohibit licensees
13 from allowing pinball machines on the premises for the purpose of
14 amusement.

15 (2) The commission shall not prohibit a licensee from
16 obtaining a video lottery agent license under article 2 of the
17 McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239.
18 The money generated by a licensee from conducting a video lottery
19 game is subject to the regulation and allocation formula
20 contained in article 2 of the McCauley-Traxler-Law-Bowman-McNeely
21 lottery act, 1972 PA 239.

22 Enacting section 1. This amendatory act does not take
23 effect unless Senate Bill No. 562
24 of the 92nd Legislature is enacted into
25 law.