



QUARTERLY MEETING OF THE
MICHIGAN LIQUOR CONTROL COMMISSION

Held: Wednesday, September 21, 2011
Lansing – 11: a.m.

Present: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Donald B. Weatherspoon, Commissioner
Edward J. Gaffney, Commissioner
Colleen A. Pobur, Commissioner
Steve Robinson, Director of Finance Division
Sharon Martin, Director of Licensing Division
Julie Wendt, Director of Executive Services Division
Tom Hagan, Director of Enforcement Division
Andy Neumann, Director of Administrative Services Division
Tim Kovacik, Deputy Director of Executive Services Division
Scott Maul, Deputy Director of Licensing Division
Don McGehee, Division Chief Alcohol and Gambling
Gerald Whalen, 1st Assistant Attorney General
Jason Geissler, Assistant Attorney General
Jason Croy, Administrative Services Division
Jean Allison, Administrative Services Division
Celine Rutkowski, Commission Secretary
April Laverty, Executive Services Division
Andrea Miller, Executive Services Division
Anita Fawcett, Public Information Officer

The meeting was called to order by Chairman Deloney at 11:06 a.m., noting that a quorum was present.

Moved by Commissioner Pobur, supported by Commissioner Gaffney, and unanimously carried, that the minutes of the Commission Meeting of June 22, 2011, be approved as written and presented.

Chairman Deloney welcomed everyone and stated it is a great honor to be appointed and a pleasure to serve on the Liquor Control Commission. He would like to thank the Directors and their staff for their support, counsel, and advice during the past two months. Chairman Deloney advised staff has a lot of ideas for changes in the process and procedures and that a lot of changes have already been made; however, there is much yet to be done to make Michigan easier to do business in. He advised we want to make Michigan a better place to live and work.

Ms. Wendt reported on the Legislative activity between June, 2011 and September 7, 2011. Ms. Wendt advised that Senate Bill 331 was introduced by Senators Hune, Smith, Pappageorge, and Brandenburg on April 14, 2011 and repeals the 1.85% retail tax on spirits for off premises consumption and deletes Section 1205 of the Liquor Control Code which requires the Commission to collect the tax. This bill was passed by the House on 09/20/2011 with a change to the effective date of the amendatory act to October 1, 2012. The bill has now been returned to the Senate.

Ms. Wendt advised that Senate Bill 399 was introduced by Senator Johnson on June 1, 2011 and requires that any on premises retail licensee shall have a self-operated breathalyzer approved by the Commission on the licensed premises and requires the Commission to provide to a licensee or the general public a list of approved devices. She stated this bill has been referred to the Committee on Regulatory Reform.

Ms. Wendt advised that Senate Bill 502 was introduced by Senator Nofs, Hood, Proos, Richardville, Emmons, Walker and Colbeck on June 21, 2011 and creates a license for the on premises consumption of alcoholic liquor that the Commission may issue to the Governing Board of a Community College or University that operates an accredited culinary or hospitality program for activities that would further the college's or university's academic mission. She stated that these provisions were also included in House Bill 4744 which was introduced on June 14, 2011 by Representative Darany. Ms. Wendt stated that Senate Bill 502 is on the calendar for today in the Senate and it is our understanding that Substitute S-2 will be introduced with amendments that include providing for the issuance of a license to a private entity at an outdoor stadium on land owned by Lake Michigan College and leased to the private entity.

Ms. Wendt advised that Senate Bill 594 was introduced by Senators Walker, Booher, and Proos and provides that a Small Wine Maker may have a leasehold interest in a retailer. This bill has been referred to the Committee on Regulatory Reform.

Ms. Wendt advised that House Bill 4061 was introduced by Representative Geiss on January 13, 2011 and would allow the sampling and consumption of beer, honey-based beer, cider, wine, or mead produced by home brewers on the licensed premises of micro brewers, brew pubs or on-premises licensees. This bill has been passed by the House and was reported favorably out of the Senate Committee on Regulatory Reform.

Ms. Wendt advised that House Bill 4821 was introduced by Representative Tlaib and provides for a uniform retail selling price for spirits for consumption off the premises rather than a minimum retail selling price; modifies the markup imposed by the Commission from not less than 51% and not greater than 65% to a flat mark-up of 37%; discontinues the 17% discount for the purchase of spirits by retail licensees from the Commission and imposes a

mandatory mark-up of 30% from the Commission's base price on spirits sold by the state to SDD licensees and on-premises licensees. This bill has been referred to the Committee on Regulatory Reform.

Ms. Wendt advised that House Bill 4926 was introduced by Representatives Pscholka, Tyler, and Nesbitt on September 8, 2011 and allows the Commission to issue a license to a private entity that leases an outdoor stadium from Lake Michigan College. She stated that as previously indicated this provision will be included in the S-2 substitute for Senate Bill 502.

Mr. Kovacik reported on Hearings and Appeals Activity for October 2010 through August 2011. He advised that violations received are down slightly by 3%, or 44 violations; violation hearings held are up by 9%, or 60 hearings; and Acknowledgments are up by 10% or 88 orders. Mr. Kovacik advised total fines are down slightly by 3%, or \$19,263.00; licensed establishments suspended are down by 10% or 4 suspensions, and revocation/terminations unless transferred are considerably down by 56% or 60 revocations. Mr. Kovacik reported that the average time from complaint to hearing for this reporting period was 63.9 days, well below the section's 90 day target.

Mr. Neumann reported on Server Training for the year to date period ending in July 2011, advising there were 496 new files received, 287 extensions were granted, 473 reminder letters were sent, 121 files were forwarded to hearings and appeals, and 24 hearings were held for Server Training violations.

Mr. Neumann reported on the MLCC's Information Technology activity, advising that Microsoft Office 2010 has been installed on a few test machines in each division, Internet Explorer 8 has been installed on all MLCC computers which updates the browser and allowing all the web pages we visit to work properly, 20 computers have been removed from our inventory, and Jason Croy has been transferring past records/data from the divisions from 3x5 disks to CDs.

Mr. Robinson reported on two topics, the sales of distilled spirits and dishonored payments to the Commission. He advised the comparative schedule of sales shows an increase of 7,279 cases and \$2.48 million when comparing the sales that occurred in August 2011 with August 2010 and the year to date picture looks even better. Mr. Robinson reported for eleven months, distilled spirit cases sold are higher by 178,014 and sales dollars are higher by \$28.7 million. This means that for the year to date, case sales are 2.85% higher and sales dollars are 3.35% higher. Mr. Robinson advised that these year to date figures compare the period of October 2010 through August 2011 with the same months from previous year.

Mr. Robinson advised he also has spirit sales information for the first two weeks of September 2011 with this information showing a continuation of the upward sales trend; with case sales almost 5% higher and sales dollars about 6 ³/₄% higher. Mr. Robinson reported on a subject that was brought up at the last quarterly meeting – decreasing spirit sales to on premises licensees. He advised for eleven months the total spirit sales dollars are up, as previously indicated, by \$28.7 million, while sales to on premises licensees are down \$3.2 million, and sales to off premise licensees are up \$31.8 million. Mr. Robinson reported that August 2011 did not follow this pattern as sales dollars to on premises licensees increased \$334,000. This made August 2011 only the seventh time in the last 23 months that dollar sales to on premises licensees increased.

Mr. Robinson also did an analysis of the percentage change in spirit sales to on premises licensees and for total spirit sales. He compared the months from one year to the same months for the next year and found that only five times out of 23 months were the sales to on premises licensees higher on a percentage basis than the total sales. As an example, Mr. Robinson explained that if total sales went up 1%, the sales to on premises licensees went up 2% or if total sales went down 3%, the sales to on premises licensees only went down 2%.

Mr. Robinson reported on his second topic of dishonored payments and advised the first chart shows the end of the month dollar balance for unpaid returned checks. He stated the balance of returned checks at the end of August 2011 is \$133,677, which is higher than the balance at the end of July 2011, and this makes the third straight month where the outstanding check balance has increased. Mr. Robinson reported the August 2011 balance is the highest since March of 2010. He advised there are two different current licensees with four outstanding checks where one licensee owes the Commission a total of \$24,611, and the other licensee owes the Commission a total of \$9,099. Mr. Robinson stated the second chart shows the dollar amounts of returned checks that we received and processed through our account each month and that the August 2011 amount of returned checks received was \$135,480. He advised this amount is the fourth highest monthly dollar amount of returned checks since July of 2009 and as a further comparison, the amount of returned checks received in August 2011 is more than double the amount received in August 2010 (\$61,927).

Mrs. Martin reported on the month of July 2011 for Licensing Activity and stated in looking at yearly comparisons, transfer and other applications received are up 48% from 2399 to 4627. She advised that new retail licenses requested are down 24% from 501 to 404; applications authorized for investigation are down 7%; applications on the Administrative Licensing Dockets are up 39%; licensing application denials are down from 90 to 67; and licensing appeals requested are down from 71 to 24; licensing transactions processed are up 57% totaling 10, 113; retail/non-retail new licenses issued are up 43% totaling 1500; requests for licenses to be placed in escrow are holding steady in the 400's and escrow extensions

requests in the 200's; product registration approvals are down from 5114 to 2952; Emergency Suspension Orders for failure to provide proof of financial responsibility are up 10%; and Special Licenses issued are down slightly from 4493 to 4380.

Mrs. Martin reported on the July 2011 Licensing Unit totals - 1182 pieces of mail were received; 39 files were reauthorized or sent for supplemental investigation; 469 files were submitted to the Commission for review; 356 files were determined incomplete for various reasons; 74 contract for license packages were mailed; 27 final inspections were processed; 280 licensing transactions were completed; 44 in-office waitings were completed; 16 files were sent back for additional information; 25 complaint investigations were issued; 46 files were cancelled. She advised status calls received in the Licensing Units were down with 2427 in July and 3325 in June. Mrs. Martin stressed the importance of our customers and the public utilizing the on-line status application tracking and advised that it is easy to use and available 24 hours a day on our website at www.michigan.gov/lcc.

Mrs. Martin advised they are currently working on a Special Project to follow up on the 3,119 pending Licensing application requests. She stated this project was started approximately two weeks ago and thus far we have cancelled 302 applications for lack of progress or no action on behalf of the applicant. Mrs. Martin advised they are committed to working through all pending files to follow-up on their progress and to attempt to obtain the lacking information or to cancel the request.

Mrs. Martin reported we have also recently updated and revised the Special license application for non-profit organizations. She advised the overall goal was the need to provide certainty and clearer instructions to non-profit organizations applying for a liquor license, hopefully shortening the timeline for the application and approval and to offer more predictability on what is required from the non-profit applicant. She advised the revised forms are available on the Commission's website and in all Commission District Offices.

Mrs. Martin also provided an update on the progress of the Licensing Division in issuing the various new permits available: AM Sunday Sales – 5,799 issued, Beer and Wine Consumer Sampling – 491 issued, and Catering Permits – 76 issued.

Mr. Hagan reported on the Enforcement Division activity for August 2011. He advised the Enforcement Division completed 130 violations in August, up slightly from this time last year, however, year to date totals compared to the same time last year have increased by approximately 10% and joint violations submitted with other law enforcement agencies have been relatively low for 2011 as there are several ongoing investigations with local police departments at the present time that may result in future violations. Mr. Hagan reported complaints investigated year to date are up significantly from this time last year as are complaints investigated for the month of August, and that these figures are a result of a focus by the investigators on complaint closure by working both independently and cooperatively to

complete and close outstanding complaints. Mr. Hagan advised that as a result of decoy operation stops at retail accounts, 14% of those licensed establishments contacted were cited as a result of the August controlled buy operations, and as can be seen from an examination of historical information, licensees are exhibiting an 86% compliance rate at the present time as opposed to the 65% compliance rate exhibited at the onset of the Commission's controlled buy operations in 1998.

Mr. Hagan stated that nevertheless, a key issue is that 72% of the violations that did occur as a result of the controlled buy operations did so after the licensees or their representatives checked the decoy's identification. He stated the continued difficulty, in some instances, may be a result of lack of understanding of what is required even though educational opportunities have been taken due to the fact that quite often, there are language barriers and that the high incident rate of selling to the under aged individual after a check of the identification highlights the continued need for oversight and continuous education.

Mr. Hagan reported the Enforcement Division's license application investigations total 218 for August of this year, up slightly from 210 last year at this time, and that local agency contacts are up significantly when comparing August 2011 to August 2010, but overall, are consistent when comparing year to date totals for both years. He advised that the total licensing and enforcement contacts by enforcement officers are down for August of this year, but are up significantly year to date.

Mr. Hagan stated that presently, the Enforcement Division is engaged in a cooperative effort with other agencies to complete a series of public service announcements that will culminate in a video that will warn of the dangers of under aged drinking and what we as an agency, parents, teachers, licensees, schools and universities can do to prevent under aged drinking.

Mr. Hagan reported the Enforcement Division is near the completion of a pilot program to standardize its report writing by the creation of a standardized report writing template and that full implementation of the template by all investigators is scheduled for January first of 2012. Presently, all investigators are involved in intensive training on the project and the template is constructed in such a way as to be able to change with the changing licensing process and keep the investigators apprised of all procedures and processes as they are modified. He advised the template is part of the continued practice of working with the Licensing Division in an effort to identify procedures and practices that may be modified or eliminated to increase the efficiency of the licensing process.

Mr. Hagan reported in the past, the Michigan Liquor Control Commission's (MLCC) Enforcement Division has been instrumental in investigating allegations of gambling as an agency and in cooperation with the Michigan State Police, and that recently, the MLCC has been asked by the MSP to take the lead on many of the alleged violations of gambling presented to the MSP so as to assist them with their ever increasing workload.

Mr. Hagan stated the MLCC's Enforcement Division continues to work as a community outreach agency by working with and making educational presentations to nationally recognized club organizations, licensees, law enforcement agencies, substance abuse organizations, parent/teacher groups and highway safety planning organizations in an effort to stop over consumption and under aged drinking.

Chairman Deloney discussed some of the improvements to the licensing process as he wants to see not only faster service, but also wants the process to be simple, fair and predictable. He stated the Commission should partner with business owners to identify problems and develop solutions before problems get out of hand. Chairman Deloney advised the statute and rules guide the Commission and we have to operate within the statute and rules that are given us without compromising the public health, welfare and safety. He wants to work closely with the Legislature and have a good relationship with them. Chairman Deloney stated we have changed the application for the Non-Profit Special Licenses by including a check list for required documents which should make the process go more smoothly. He advised that the Commission requires 10 days to complete these applications and it is hard to provide good customer service when the applications come in at the last minute.

Chairman Deloney advised of the changes that will be made regarding granting of secondary permits to current licensees in active operation. He stated requests for certain permits by current license holders will be deemed approved upon satisfactory submission of all materials required by the permit application, and all completed permit applications will immediately, or as soon as possible, be placed on the next Commission's Open Meeting Consent Agenda Docket for approval. Chairman Deloney advised the Commission is looking at reforming this process and others, but certain potential hurdles lay in our way, such as delegating specific authority to Commission staff to process certain applications without the need to have them approved at a Commission meeting each time. He stated at his request, the Assistant Attorney General's office is currently analyzing this issue and will report back to the Commission in the near future.

Commissioner Quimby echoed the comments of Chairman Deloney regarding the help received from directors and staff. She advised great changes are happening and is happy to be a part of them.

Commissioner Gaffney advised he likes what he is hearing and this is the time to implement changes and become more business friendly.

Commissioner Pobur stated it is good to see a team working as a team to advance the economic growth while still protecting the public health, welfare and safety. She stated this is a great job and it is a pleasure to be part of the evolution of the Commission.

Mr. Reginald Bradford, Trustee for Central United Methodist Church and parking lot attendant located at 23 W Adams, Detroit MI, advised the church was in a downtown historic district close to Ford Field, Comerica Park, theatres and the opera house and has been in existence for 200 years. He stated the church has been approached by the LAX Nightclub to use their parking lot on the weekends and were told no by the church. Mr. Bradford stated there have been numerous problems with this location involving shootings, disruptive crowds and police presence has been required. He specifically advised of one incident on September 11, 2011 involving a shooting in the church parking lot that damaged his car among others. Mr. Bradford stated that a church trustee meeting was held and they voted to deny any type of license for LAX Nightclub or any business of this sort in their community. Chairman Deloney advised him that a church hearing regarding a special license application for an event to be held at that location was scheduled for the next day in Southfield.

Mr. McGehee, Division Chief of the Alcohol Gaming Enforcement Division of the Attorney Generals office advised on a point of order that this was not the forum for this type of information to come before the Commission. He advised the Commission that there is a procedure in place for a church or school hearing where this information would be heard and there is a church hearing scheduled on this issue for September 22, 2011.

Mr. Rick Tressler, property manager for Kales Building, located at 76 W Adams, Detroit MI, requested to address the same issue of LAX Nightclub, advising this apartment building is located across from the Grand Circus Park Historic district. He questioned the charity obtaining the license for the LAX location and would like them to be denied for any other type of license as it is a nightmare for the residents. Mr. McGehee again advised that this was not the forum to raise these concerns. Chairman Deloney thanked Mr. Tressler for traveling so far to bring these important issues to the Commission attention and advised that a church hearing was scheduled for Thursday, September 22, 2011 at 10:00 a.m. in the Southfield District Office and they would be welcome to attend.

Paul Howard, member of Lazy I, LLC located at 2030 Park Avenue, Detroit MI, advised that of all the agencies he has worked with, the Commission was the most friendly and easy to work with and that our staff is very helpful. He stated some of the local municipalities are very difficult to work with. Chairman Deloney thanked him for his compliments and that it is nice to hear from the public that we are doing a good job. Mr. Howard advised he is in favor of streamlining the licensing process and cutting out bureaucracy. He asked if the Commission could have the State handle the background checks as they have better databases for processing this type of information and would eliminate any personal issues with the local police agencies. Mrs. Martin explained that we are working towards an automated finger printing process that would help streamline the licensing process. Mr. Howard also wished to voice his objections to LAX Nightclub in this area and the problems that have risen from this establishment.

Chairman Deloney congratulated Lance Binoniemi, Executive Director of Michigan Licensed Beverages Association on his new position and stated the MLBA will be losing a great leader who is well respected and acted with integrity and honesty.

Moved by Commissioner Quimby, supported by Commissioner Gaffney, and unanimously carried that the meeting adjourn. Time of adjournment – 12:30 p.m.

Andrew J. Deloney
Chairman

Anita Fawcett
Executive Services Division