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LIQUOR CODE AMENDMENTS

House Bill 6271 as enrolled
Public Act 416 of 1998
Second Analysis (12-28-98)

Sponsor: Rep. Ilona Varga
House Committee: Regulatory Affairs
Senate Committee: None

THE APPARENT PROBLEM:

The laws regulating the importation, distribution, and sale of alcoholic beverages have been amended many times in the last few decades, and were recodified earlier this year by Public Act 58 as the Michigan Liquor Control Code of 1998. Unfortunately, these many changes have resulted in several incorrect internal references within the act and in a few confusing provisions that have resulted in regulations being interpreted in several ways. Legislation has been proposed to correct the references within the act, clarify several confusing provisions, and to make several other changes that the Liquor Control Commission has requested.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Liquor Control Code of 1998 to make various technical and clarification amendments. The changes would be as follows:

* Currently, the code permits on-premise licensees to purchase (and specially designated distributors [SDDs] to sell to them) up to nine liters of spirits from SDDs in any one-month period. The bill would clarify that the permitted amount is a total of nine liters of spirits purchased from all SDDs in any one-month period.

* The code exempts any city with a population of one million or more from having an application for an on-premise license be approved by the local legislative body. The bill would lower the population threshold from one million to 750,000.

* The bill would add the Ferris State University-Grand Rapids (FSU-GR) Conference Center to the list of college and university conference centers approved for an on-premise liquor license.

* The bill would establish the fee for an initial and renewal banquet facility permit at $600. To be eligible for a banquet facility permit, a licensee must demonstrate that at least 75 percent of the gross receipts of the on-premise license is derived from the sale of food and non-alcoholic beverages. The bill would decrease this amount to 50 percent.

* The code created an additional 25 resort economic development licenses for 1998. The bill would extend the deadline for the Liquor Control Commission to approve and issue the 1998 licenses from December 31, 1998 to June 30, 1999.

* The bill would allow the commission to issue an extra 10 SDD licenses for 1998 and 1999 to merchants in a municipality of less than 50,000 population whose business was designed to attract and accommodate tourists and visitors to a resort area.

* The code limits the issuance of SDD licenses to one license for each 3,000 of population or fraction thereof. The bill would allow the commission to waive the quota requirement if there was no existing SDD licensee within two miles of the applicant as measured along the nearest traffic route.

* The bill would clarify that a license could be revoked or suspended for three or more separate violations of Section 801(2), which prohibits direct sales to minors and direct or indirect sales to intoxicated persons, that occurred within a 24-month period.

* The bill would change several incorrect internal references that refer to the Michigan Liquor Control Code of "1997" (the act is correctly titled "the Michigan Liquor Control Code of 1998").

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bill primarily fixes a few glitches in the Michigan Liquor Control Code through technical amendments and clarifications. For example, the code allows on-premise licensees to buy up to nine liters of spirits a month from specially designated distributors (SDDs). However, some on-premise licensees and SDDs have been interpreting this provision as meaning no more than nine liters of spirits from any one SDD in a one-month period. The bill would clarify that the total amount of spirits purchased by an on-premise licensee from one or more SDDs could not exceed nine liters per month.

Further, the city of Detroit, by virtue of having over one million in population, is excluded from the regulation that an on-premise liquor license be approved by the local legislative body. In light of the possible drop in Detroit's population when the 2000 census figures are reported, the threshold for the exemption would be lowered from one million to 750,000 to accommodate any population decline.

For:

Currently, the code specifies that the Liquor Control Commission must hold a hearing and suspend or revoke a liquor license for an on-premise licensee who had been found liable within a 24-month period for three or more violations of Section 810(2), which prohibits the direct sale of alcohol to minors and the direct or indirect sale of alcohol to a visibly intoxicated person. Historically, the commission has interpreted this provision to mean that the convictions had to be within the 24-month period, as opposed to the three violations occurring within the specified period. Reportedly, however, some licensees have deliberately used adjournments and other tactics to delay and manipulate proceedings as a means to elude license sanctions. The bill, therefore, would clarify that license sanctions would be levied if a licensee was found to have violated Section 801(2) on three occasions within a 24-month period, regardless of the time required to complete the hearing procedures. This change would result in a fairer system to administer, and better represents the intent of the original legislation.

For:

The bill would extend the time frame for the commission to approve and issue the 25 additional resort development district licenses by six months. As part of the criteria for approval is a commitment to a $1.5 million capital investment, a number of hotels and restaurant chains have already invested large amounts of money in buying land and beginning to build on the belief that they will be issued on-premise liquor licenses under this provision. According to commission staff, however, due to staff shortages and the sheer amount of time involved in investigating applicants and completing the approval process, there is not enough time to process the pending applications before the end of the year. The extension merely gives sufficient time for the commission to complete the processing of applications.

Against:

Far from offering only technical amendments and clarifications, the bill could be viewed by some as a further erosion of the quota system that bases the availability of liquor licenses on population. For instance, adding the Ferris State University-Grand Rapids Conference Center to the definition of conference centers eligible for liquor licenses actually would allow one more public sector license in the Grand Rapids area that would compete against existing licensees. Allowing the commission under certain conditions to waive the population restriction for issuing SDD licenses, and allowing up to 10 additional SDD licenses in resort areas of less than 50,000 people, would also result in new licenses being created. More effort should be placed on creating and enforcing laws that would aid current licensed businesses rather than creating more competition than the market can bear or in increasing the accessibility of alcohol more than commission enforcement officers can monitor.

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■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.