House Legislative Analysis Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

EXTEND SUNSET ON RESORT LICENSES

Senate Bill 1349 as passed by the Senate
First Analysis (12-12-00)

Sponsor: Sen. Thaddeus G. McCotter
House Committee: Regulatory Reform
Senate Committee: Economic Development, International Trade and Regulatory Affairs

THE APPARENT PROBLEM:

Under the Liquor Control Code of 1998, licenses for the on-premises consumption of alcoholic beverages are generally limited by population; only one such license per 1,500 people can be issued within any governmental unit. There are, however, a number of exceptions. One significant exception is the issuance of "resort licenses" above and beyond the quota. In 1952, 550 resort licenses were made available statewide and a fixed number have been made available each year since 1964. Currently, the LCC may issue 10 additional resort licenses each year to establishments whose business and operation, as determined by the commission, are designed to attract and accommodate tourists and visitors to the resort area, whose primary purpose is not the sale of alcoholic beverages, and who have a capital investment of at least $75,000. Additionally, the commission may issue another 20 resort licenses to businesses with a capital investment of over $1.5 million and whose primary purpose is not the sale of alcoholic beverages. One additional resort license can be made available to an establishment located in a rural area that meets certain poverty and unemployment criteria. Under the code, the commission is prohibited from issuing a resort license where an on-premise license remains available under the quota system or if a readily available escrowed license exists, but this requirement can be waived. The LCC may also issue 10 package liquor licenses to established merchants whose business and operation are designed to attract and accommodate tourists and visitors to a resort area that are located in local governmental units with a population under 50,000 people and in which the package liquor license quota has been exhausted.

These additional licenses have been made available partly in recognition of the fact that the fixed population of an area does not always accurately reflect the volume of economic activity, particularly in areas where there are sizable seasonal populations. However, the commission's authority to issue additional resort licenses expires soon. Legislation has been introduced to extend the authority of the commission to issue additional resort licenses.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Liquor Control Act to extend through 2002 the authority of the Liquor Control Commission (LCC) to issue a limited number of resort licenses each year. The bill would allow issuance of the following resort licenses for 2001 and 2002:

• Up to 10 licenses for establishments whose business and operation are designed to attract and accommodate tourists to a resort area, whose primary business is not the sale of liquor, and who have a minimum capital investment for improvements of $75,000.

• Up to 20 licenses for businesses with a capital investment of over $1.5 million, whose primary business is not the sale of alcohol, and whose operation is designed to attract and accommodate visitors to a resort area.

• One additional resort license to an establishment located in a rural area that has a poverty rate above the statewide average or an unemployment rate above the statewide average for three of the five preceding years.

• Up to a total of 10 specially-designated distributor (SDD) licenses for the sale of package liquor, including spirits, in local units of governments with populations under 50,000 in which the package liquor license quota has been exhausted.

FISCAL IMPLICATIONS:

All license applicants are charged a $70 investigation fee to cover the state's costs of investigating license applicants as required under the Michigan Liquor Code. In addition, license recipients are charged annual fees which vary depending upon their status as a licensee. For example, a resort license issued to a Class C resort would cost the recipient $600 per year for the first location, plus $350 per year for each additional bar. In contrast, specially designated distributors (SDDs) awarded off-premises licenses pay $150 per year plus an additional $3 for each $1,000 of liquor purchased from the LCC beyond $25,000. In all cases, 55 percent of this license fee revenue is distributed to local units in recognition of code enforcement costs that are borne by the local units.

The House Fiscal Agency reports, therefore, that the bill would increase state revenues collected through liquor license fees by an amount dependent upon the number of additional licenses actually issued in each year. Further, given current requirements for the Liquor Control Commission and local legislative review and approval of liquor license applicants, the bill would also increase state and local costs slightly. (12-6-00)

ARGUMENTS:

For:

Continuing the practice of issuing resort liquor licenses would help boost the tourism and recreation industries throughout the state, particularly in northern Michigan, and thus create jobs for Michigan people. Without these licenses being available, the quota system would inhibit business expansion in some areas where all the quota licenses have been allocated and no escrowed licenses are available, but additional businesses are needed to serve a large, but fluctuating, seasonal population. Both large and small businesses could benefit by the bill.

Response:

Rather than having to introduce legislation almost every year to extend the Liquor Control Commission's authority to issue additional resort licenses, the provision should be made a permanent part of the liquor code.

Rebuttal:

There are compelling reasons to continue to revisit this issue on a regular basis. Conceivably, there could come a time when the state has reached the limit on how many liquor establishments it can support. Sunsetting the provision relating to additional resort licenses affords the opportunity to verify the need for additional licenses.

Against:

The current market price to buy an on-premise liquor license from an established business or a license in escrow averages about $40,000 to $50,000, but can run as high as $300,000. Yet, businesses that get one of the new resort licenses only have to pay the commission $650, which is the regular license fee. This creates a hardship for existing businesses that had to pay a higher price for a license only to compete against a new business that only had to pay the regular license fee. In a way, it is like the state is subsidizing some businesses (which often are part of a national chain) at the expense of others. Competition between liquor establishments could lead to such things as businesses lowering drink prices to bring in customers, which could exacerbate such alcohol-related problems as drunk driving and access by minors.

Businesses receiving resort licenses should be required to pay the market price for liquor licenses for the area they are settling in, with the amount in excess of the regular license fee of $650 going to fund programs that would address abuses of alcohol (e.g., better training programs for waitstaff to minimize the incidents of minors or intoxicated patrons being served).

Response:

A business applying for a resort economic development license has to make a capital investment of at least $1.5 million to qualify for licensure, and the bill would require a business applying for the additional resort licenses to have a capital investment of $75,000. So, where these businesses may have to pay a lower license fee, it is offset by the investment required to even apply for a license. Further, it must be remembered that unlike other businesses with liquor licenses, the sale of liquor cannot be the primary business of a resort or resort economic development licensee.

Rebuttal:

Since the capital outlay requirement includes the price of the property, these thresholds are not difficult to meet. It still creates an undue hardship on existing businesses that invested thousands of dollars for a license on top of buying the building, and so on, and that must now face increased competition for customers.

Against:

Some persons believe that increasing the availability of alcohol leads to an increase in alcohol-related problems. The bill represents a further erosion of the liquor law's restrictions on the availability of on-premises licenses and runs contrary to the public policy that lies behind a population quota system for liquor licenses. Currently, there are more than 9,000 licensed on-premise establishments. If the quota system had been adhered to, there would have been approximately 6,000. The special licenses created in recent legislative sessions have added over 3,000 more licenses. The sunset on issuing these additional licenses should not continue to be automatically extended unless a study is done to see if the economy can support more liquor establishments. Sooner or later, a saturation point will be reached. To continue to extend the sunset without sufficient review and consideration would not necessarily create a healthy competition, but could create an unlevel playing field in favor of national chain restaurants and against small "mom and pop" bars and restaurants. Thus, continuing to allow additional resort licenses will, in the opinion of many, harm existing businesses.

Response:

It may be that the population-based restriction no longer serves any useful purpose, except perhaps to protect existing licensees. There are quite a few exceptions to the quota in statute that render it less than fully effective or consistent. It might be best to revisit the issue of retail liquor licensing in its entirety.

Against:

Since most liquor licenses are restricted to a certain number in a geographic area based on population, the LCC refigures the number of liquor licenses that will be available in an area after each ten-year census is completed. As Michigan's population continues to increase, so do the amount of new liquor licenses. This bill is premature, therefore, as it is not even known if the bill is needed. It may well be that a natural increase in population in resort areas will result in a sufficient number of new licenses being issued. No more liquor licenses should be created until the data is reviewed and a determination is made by the LCC whether a population has increased in a certain area and will support another liquor establishment in the area.

POSITIONS:

The Michigan Restaurant Association supports the bill. (12-11-00)

The Michigan Grocers Association supports the bill. (12-11-00)

The Michigan Hotel, Motel & Resort Association support the bill. (12-11-00)

Spartan Stores, Inc. support the bill. (12-11-00)

The Michigan Licensed Beverage Association opposes the bill. (12-8-00)

Analyst: S. Stutzky

#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.