

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 1064 (as enrolled)

PUBLIC ACT 395 of 2000

Sponsor: Senator John J. H. Schwarz, M.D.

Senate Committee: Economic Development, International Trade and Regulatory Affairs

House Committee: Economic Development

Date Completed: 1-11-01

RATIONALE

There are three types of brewers specified under the Michigan Liquor Control Code. A brewer is a person located in Michigan that is licensed to manufacture and sell beer it produces to licensed wholesalers. A brewer may obtain a specially designated merchant (SDM) license to sell its beer at retail for off-premises consumption if it produces less than 200,000 barrels per year, but it may not sell beer for on-premises consumption. A microbrewer is a brewer that produces 30,000 barrels of beer or less per year; a microbrewer may sell the beer to wholesalers, and to consumers at the licensed brewery for consumption on or off the premises. A brewpub license is a license to manufacture 5,000 barrels of beer or less per year, issued in conjunction with a class C tavern, class A hotel, or class B hotel license, for on-premises consumption.

Under the Code, all beer manufactured or sold in the State is taxed at the rate of \$6.30 per barrel (31 gallons) if sold in bulk or in different quantities. An "eligible brewer" may claim a credit of \$2 per barrel. For purposes of the credit, an eligible brewer has been defined as a brewer, microbrewer, or brewpub that manufactures 30,000 barrels of beer or less during the tax year for which the credit is claimed. Reportedly, there are currently no brewers in Michigan that produce over 30,000 barrels per year. (This does not make all brewers microbrewers, however, as some brewers have chosen not to obtain a license for selling beer for on-premises consumption.) It was pointed out that as a brewer or microbrewer grows, and approaches the 30,000 barrel threshold, it would no longer be eligible to claim the \$2 per barrel credit on any of the barrels produced, if the brewer or microbrewer produced one barrel more than 30,000. In addition, if a microbrewer were to exceed the 30,000 barrel limit, it no longer would qualify as a microbrewer under the Code, and therefore would become ineligible to sell beer for on-premises consumption. It was suggested that, under certain conditions, brewers be allowed to claim the credit for the 30,000 barrels if the limit is exceeded, and brewers producing 200,000 barrels or

less be allowed to sell beer for on-premises consumption.

CONTENT

The bill amended the Michigan Liquor Control Code to allow certain brewers that produce under 200,000 barrels of beer per year to sell beer for on-premises consumption; and revise the current eligibility criteria for a brewer to claim a per-barrel tax credit.

The bill provides that a brewer that is not licensed as a microbrewer, but produces under 200,000 barrels of beer per calendar year, may sell its beer for on-premises consumption at one location in Michigan that is on any of its licensed brewery premises.

Further, the bill allows a brewer to produce up to 50,000 barrels or less per year, and remain eligible to claim the existing \$2 per-barrel credit for the first 30,000 barrels produced.

MCL 436.1409 & 436.1411

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In recent years, microbrewers and small brewers have enjoyed increased demand for the beer they produce. The \$2 per barrel credit that those brewers can claim helps them to compete with the few large national brewers that sell the vast majority of beer consumed in the United States. The Code's 30,000-barrel limitations, however, posed a significant disincentive for a brewer or microbrewer to produce more than that quantity, thus discouraging growth and expansion. By allowing a brewer to produce up to 50,000 barrels, but retain the right to claim the credit for up to 30,000 barrels, and by allowing on-

premises consumption at one facility of a brewer that produces 200,000 barrels or less, the bill removes the barriers to increased development of brewers in Michigan.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.