

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

SFA**BILL ANALYSIS**

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

Senate Bill 1312 (as reported without amendment)
Sponsor: Senator Shirley Johnson
Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 6-3-02

RATIONALE

The Michigan Liquor Control Code provides for several different types of licenses to sell and serve alcohol. For instance, a Class C license, typically held by a bar or restaurant, entitles the licensee to sell at retail beer, wine, and spirits (liquor) for on-premises consumption; a specially designated distributor (SDD) license, typically held by a liquor store or grocery store, entitles the licensee to distribute liquor in the original package for off-premises consumption; and a specially designated merchant (SDM) license, typically held by a party store or a convenience store, entitles the licensee to sell beer or wine, or both, at retail for off-premises consumption. Like a Class C license, other licenses, such as a Class B hotel license or a resort license, authorize licensees to sell beer, wine, and liquor for on-premises consumption.

If an on-premises licensee authorized to sell liquor also operates a catering business providing off-site food service, the licensee may be able to provide beer and wine at such an event, because the Code specifically allows an on-premises licensee to apply for an SDM license. In addition, a caterer may serve liquor at an off-site event if the caterer's customer purchases the liquor from an off-premises liquor licensee and delivers the liquor to the event. The caterer may not provide liquor to its customer, however. To address this situation, some people believe that the Code should provide for a special permit to be issued to an on-premises liquor licensee that also provides food service, allowing that licensee to sell liquor for an off-site private event.

CONTENT

The bill would amend the Michigan Liquor Control Code to allow the Liquor Control

Commission to issue an "SDD-C permit" to a public on-premises licensee, as a supplement to that on-premises license. An SDD-C permit would allow the sale and delivery of spirits in the original sealed container, at locations other than the licensed premises, for purposes of catering or service of spirits at a "private event" where liquor was not resold to guests.

An applicant for an SDD-C permit would have to apply on a form approved and provided by the Commission and pay an application and processing fee of \$70. An applicant would have to pay an SDD-C permit fee of \$300 at the time the permit was issued. A licensee also would have to pay the SDD-C permit fee when renewing its on-premises license.

The bill states that it would not limit the number of SDD-C permits the Commission could issue within any local unit of government. The bill also would not prevent an SDD-C permit holder from using the permit at multiple locations and events during the same time period.

Spirits sold by an on-premises licensee under an SDD-C permit would have to be sold at the price fixed by the Commission for specially designated distributors under Section 229 of the Code (MCL 436.1229). (That section allows the Commission to license a hotel or merchant, in places that it designates, to sell spirits for consumption off the premises. If alcoholic liquor is sold by a specially designated distributor pursuant to such a license, it must be sold at a price fixed by the Commission, pursuant to promulgated rules.)

Under the bill, "SDD-C permit" would mean a permit issued by the Commission to a public on-premises licensee, who was licensed for the sale of spirits and also was licensed as a

food service establishment under the Food Law, that would enable the permit holder to sell and deliver spirits in the original sealed container to a consumer for off-premises consumption as long as the sale was not by the glass or drink.

"Private event" would mean an event at which no consideration was paid by the guests. (As defined elsewhere in the Code, "consideration" includes any fee, cover charge, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks, or the furnishing of glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food (MCL 436.1913(5).)

Proposed MCL 436.1545

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

By authorizing the Liquor Control Commission to issue a permit allowing a public, on-premises licensee, licensed to sell liquor and licensed under the Food Law as a food service establishment, to sell liquor at an off-site private event, the bill would fill a void in the Code with respect to the provision of alcoholic beverages at catered events. A licensee that obtained an SDD-C permit under the bill then could offer its full array of services to a catering customer for an off-site private event. Currently, a caterer that holds an on-premises liquor license may provide beer and wine for such an event by securing an SDM license. Also, a caterer may serve liquor at the event as part of its catering service, as long as the customer purchases the liquor from an establishment licensed to sell for off-premises consumption and transports it to the event. The bill would simplify the conditions under which a caterer with an on-premises liquor license may serve liquor at an off-site private event, by allowing that caterer to provide the liquor to its customer.

Supporting Argument

The bill would include adequate safeguards against abusing the practice of selling liquor for off-site events. An SDD-C permit only could be issued to and used by a food

establishment with a public on-premises liquor license, and liquor could be provided only at a private event (an event at which the guests were not charged). Also, the price of liquor sold to a caterer's customer under an SDD-C permit would have to be fixed by the Liquor Control Commission, and the liquor could not be resold to individuals at the event by the drink, by the glass, or otherwise.

Response: It is unclear whether the definition of "private event" and its reference to a consideration paid would allow the use of an SDD-C permit at events such as charitable or political fund-raisers. At those types events, the guests do not necessarily pay a consideration in the form of a food or drink charge or an admission fee but are encouraged to make financial contributions for a particular cause.

Supporting Argument

The fees that the bill would require for a licensee to apply for, receive, and renew an SDD-C permit should provide sufficient revenue to offset any costs associated with any increased regulatory responsibilities on the part of the Liquor Control Commission.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would create a new permit for off-premises consumption and allow for the assessment of fees. Information regarding the number of permits is not available at this time, but according to the Liquor Control Commission, these fees would offset the costs associated with the additional regulatory responsibilities.

Fiscal Analyst: Maria Tyszkiewicz

A0102\S1312a

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.