Legislative Analysis

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ALLOW DISCOUNT LIQUOR PRICES

Senate Bill 456 as passed by the Senate
Sponsor: Sen. Alan Sanborn
House Committee: Regulatory Reform
Senate Committee: Economic Development, Small Business, and Regulatory Reform

First Analysis (9-28-05)

BRIEF SUMMARY: The bill would grant the Liquor Control Commission authority to allow a specially designated distributor to sell spirits at less than the minimum retail selling price in order to dispose of inventory. This applies to sales for off-premises consumption.

FISCAL IMPACT: Since the demand of liquor is relatively unresponsive to price changes, a price decrease should result in lower sales tax revenue. However, the bill would simply reinstate a practice that had been in place prior to the enactment of Public Act 407 of 2004, which took effect on November 29, 2004. Therefore, there is not enough sales history under the current law to indicate its true impact compared to allowing discounting below the minimum price. This analysis is preliminary and will be revised as new information becomes available.

THE APPARENT PROBLEM:

For many years, the Liquor Control Code required that spirits sold for off-premise consumption by a specially designated distributor (SDD) had to be sold at a price set by the Liquor Control Commission (LCC). The LCC set a uniform selling price for sprits sold for off-premise consumption that was usually equal to its purchase price plus a state markup and several specific taxes. Spirits could not be usually be sold above or below the price set by the LCC. Reportedly, though, the LCC could set a lower price to allow retailers to dispose of hard-to-sell inventory. Last session, however, the legislature and governor enacted Public Act 407 of 2004, which lifted the ceiling on the selling price and requires only that spirits not be sold below the "minimum retail selling price." This new language is understood to prevent the LCC from lowering the retail selling price for inventory reduction purposes.

THE CONTENT OF THE BILL:

Under the Liquor Control Code, spirits sold for off-premises consumption must be sold at or above a state-established minimum retail price, fixed by the Michigan Liquor Control Commission. <u>Senate Bill 456</u> would provide for an exception to allow specially designated distributors to sell spirits below the minimum retail price "in order to dispose of inventory," with the approval of the LCC.

Under the bill, the LCC could, by rule or order, allow an SDD to sell alcoholic liquor at less than the minimum retail selling price in order to dispose of inventory at a price and under conditions and procedures established through that rule or order.
Under the act, the minimum retail selling price is the sum of (1) the prices the commission pays for the spirits, (2) the state markup, and (3) the four specific taxes (totaling 13.85 percent) levied on the retail selling prices.

MCL 436.1229

HOUSE COMMITTEE ACTION:

The House Committee on Regulatory Reform made no changes from the Senate-passed version of the bill.

ARGUMENTS:

For:

The bill corrects an unintended consequence of Public Act 407 of 2004, by permitting SDD's to sell spirits at a price below the minimum retail selling price set by the Liquor Control Commission. Often, licensees purchase new products thinking that they will sell well. However, when those sales don’t't materialize, licensees are stuck with the product and cannot reduce its price. Until recently, the LCC could allow spirits to be sold at a discount in these special circumstances. This proposed legislation restores the LCC authority and permits the licensee to get rid of the inventory and recoup at least some of the purchase costs. The LCC has testified that it has been working with vendors to establish a system that ensures that licensees won't discount prices just so they can sell spirits at a cheaper price.

POSITIONS:

The Michigan Licensed Beverage Association supports the bill. (9-27-05)

The Michigan Liquor Vendors Association supports the bill. (9-27-05)

The Liquor Control Commission is neutral on the bill. (9-27-05)

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