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BILL ANALYSIS

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Senate Bill 199 (Substitute S-2 as passed by the Senate)

Sponsor: Senator Jud Gilbert, II

Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 3-24-05

RATIONALE

Under the Michigan Liquor Control Code, alcoholic beverages that are sold for on-premises consumption may not be removed from the premises. This means that if people order a bottle of wine in a restaurant to drink with their meal, they may not take home the remainder of the wine if they do not consume the entire bottle. It has been pointed out that this may present a safety issue if diners feel compelled to finish a bottle of wine because they are paying for it, and therefore consume more alcohol than they should. Also, if people know they are going to waste part of a bottle, they might order less expensive, lower quality wine than they otherwise would purchase, which means lower profits for restaurateurs. According to the Michigan Restaurant Association, 30 other states allow restaurants to reseal wine bottles for patrons to take home. It has been suggested that Michigan should do the same.

CONTENT

The bill would amend the Michigan Liquor Control Code to provide that vendors licensed to sell wine on the premises could allow an individual to remove from the premises a partially consumed bottle of wine that he or she had purchased with a meal. The person would have to reinsert the cork so that the top of it was level with the lip of the bottle.

The transportation or possession of a partially consumed bottle of wine would have to comply with Section 624a of the Michigan Vehicle Code. (That section prohibits drivers and passengers from transporting or possessing opened

containers of alcoholic liquor within the passenger compartment of a vehicle. If a vehicle does not have a trunk or compartment separate from the passenger compartment, the container must be enclosed or encased and it may not be readily accessible to the vehicle occupants.)

The bill specifies that these provisions would not allow the removal of any additional unopened bottles of wine unless the vendor was licensed as a specially designated merchant (i.e., a person licensed to sell beer and/or wine at retail for off-premises consumption).

Under the Code, alcoholic liquor sold by vendors for on-premises consumption may not be removed from the premises. The bill, instead, would prohibit a purchaser from removing from the premises alcoholic liquor sold by a vendor for consumption on the premises, except as provided above.

MCL 436.2021

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

The bill would reduce the risk of drunk driving, boost restaurants' profits, and enhance patrons' dining experience, by authorizing on-premises licensees to allow their customers to take partially consumed bottles of wine. This would be allowed only if a bottle of wine were purchased with a meal, and it would not apply to any other alcoholic beverages or to unopened bottles

of wine. If diners knew that they could keep the wine they did not drink at the restaurant, they would be less inclined to consume more than they should in order not to waste it. Patrons also would be more likely to purchase better-quality, more expensive bottles of wine, or to order a bottle instead of a glass, if they knew that they could enjoy the remainder at home. In addition, diners who ordered a bottle instead of a glass would have a selection that was both wider and of higher quality, since most restaurants offer only limited choices by the glass, and those tend not to be the finest wines.

Opposing Argument

Michigan has an open-container law on the books for a reason: to discourage drinking and driving, and thereby protect the lives and safety of motorists. Reportedly, 41% of fatal car accidents involve alcohol, making it the leading cause of motor vehicle deaths. The bill could contribute to this problem by creating an opportunity for people to transport opened bottles of wine, and encouraging diners to order wine by the bottle instead of by the glass.

Response: The bill specifically would require the transportation and possession of partially consumed wine bottles to comply with the open-container law. The law recognizes that there are situations in which people transport opened bottles of alcoholic beverages, and it provides a reasonable safety measure: The container may not be within reach of the driver or passengers of the automobile. Taking a partially consumed bottle of wine home from a restaurant should be no different from taking it home from picnic or a party. Furthermore, the bill would require a bottle to be recorked so that the top of cork was even with the lip of the bottle. This means that the bottle could not be reopened without a corkscrew: something most people presumably do not keep in their car. By removing an incentive for people to finish a bottle of wine in one sitting, the bill actually would decrease the risk of drunk driving.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

Fiscal Analyst: Elizabeth Pratt

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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.