



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



BILL ANALYSIS

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

Senate Bill 199 (as enrolled)

PUBLIC ACT 21 of 2005

Sponsor: Senator Jud Gilbert, II

Senate Committee: Economic Development, Small Business and Regulatory Reform

House Committee: Regulatory Reform

Date Completed: 5-27-05

RATIONALE

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

CONTENT

The bill amended the Michigan Liquor Control Code provide that vendors licensed to sell wine on the premises may allow an individual to remove from the premises a partially consumed bottle of wine that he or she has purchased with a meal. The licensee or the licensee's clerk, agent, or employee must reinsert a cork so that the top of it is level with the lip of the bottle.

The transportation or possession of a partially consumed bottle of wine must 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 do not allow the removal of any additional unopened bottles of wine, unless the vendor is licensed as a specially designated merchant (i.e., a person licensed to sell beer and/or wine at retail for off-premises consumption).

The Code had provided that alcoholic liquor sold by vendors for on-premises consumption could not be removed from the premises. The bill, instead, prohibits a purchaser from removing from the premises alcoholic liquor sold by a vendor for consumption on the premises, except as provided above.

The bill took effect on May 19, 2005.

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 will 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 may be allowed only if a bottle of wine is purchased with a meal, and it does not apply to any other alcoholic beverages. If diners know that they may keep the wine they do not drink at the restaurant, they will be less inclined to consume more than they should in order not to waste it. Patrons also will be more likely to purchase better-quality, more expensive bottles of wine, or to order a bottle instead of a glass, if they know that they can enjoy the remainder at home. In addition, diners who order a bottle instead of a glass will have a selection that is 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 might 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 requires 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 requires a bottle to be recorked so that the top of cork is even with the lip of the bottle. This means that the bottle cannot 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 will decrease the risk of drunk driving.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will 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.