



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5627 (Substitute H-2 as reported without amendment)

Sponsor: Representative Tory Rocca

House Committee: Regulatory Reform

Senate Committee: Economic Development, Small Business and Regulatory Reform

Date Completed: 4-20-06

RATIONALE

Provisions in the Michigan Liquor Control Code make it illegal for the owner of a building that is not licensed under the Code to lease it to another person and charge admission for (or sell food at) an event where alcohol will be consumed. Since a violation of the Code is a misdemeanor, the building owner could be prosecuted for violating these provisions. There is some uncertainty, however, as to whether the person who is renting the premises also could be held liable. This apparent ambiguity came to light after a shooting at a rental hall in Warren, where the person renting the hall evidently charged people \$15 to \$20 to attend a New Year's Eve party, to which they brought their own alcoholic beverages. It has been suggested that the statute should clearly prohibit this practice.

CONTENT

The bill would amend the Michigan Liquor Control Code to prohibit a person from leasing, and furnishing to another person, any place not licensed under the Code in which another person could drink alcohol for consideration. The bill also would expand the definition of "consideration".

The Code prohibits a person from maintaining, operating, or leasing, or otherwise furnishing to any person, any premises or place that is not licensed under the Code within which the other person may engage in the drinking of alcoholic liquor for consideration.

The bill also would prohibit a person from obtaining by way of lease or rental agreement, and furnishing or providing to any other person, any unlicensed premises or place within which any other person could engage in the drinking of alcoholic liquor for consideration.

Currently, "consideration" means any fee, cover charge, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquid used with alcoholic drinks, or the furnishing of glassware or other containers for use in the consumption of liquor in conjunction with the sale of food. Under the bill, "consideration" also would include a ticket purchase, or the purchasing of any service or item, or combination of service and item.

MCL 436.1913

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

According to news reports, at approximately 2:30 a.m. on January 1, 2006, a person attending a party at Araden Hall in Warren opened fire, killing one victim and injuring two others. Apparently, the hall had been rented for a New Year's Eve party, where people paid a \$15 to \$20 cover charge and consumed their own alcohol. Reportedly, Araden Hall, which is not licensed under the Liquor Control Code, often is rented for parties of this type, and Warren police have made 100 runs to the hall in the past two years. Although local officials consider the

hall a public nuisance and have attempted to have it shut down due to the history of violence, the premises evidently are in compliance with building codes. Because the hall does not have a liquor license, the Liquor Control Commission cannot take administrative action against it, although violations of the Code may be subject to criminal prosecution.

It is not clear, however, whether the rental of the hall for the type of event that took place on New Year's Eve violated the Liquor Control Code, because the hall owner was not the person selling the tickets, or otherwise charging consideration. Although some people believe that the existing prohibition in the Code is broad enough to cover both the owner and the renter in this type of situation, the provision arguably is open to interpretation. Under the bill, criminal liability would extend clearly to someone who hosted a party at a rented hall, where people would consume alcohol, if people paid to attend the event. This provision would give local prosecutors greater leeway to pursue criminal charges.

The bill also would broaden the definition of "consideration" to include any service or item, in addition to food, ice, drink mixes, or the use of glasses or other beverage containers. This could cover situations in which no food or beverages or related items were supplied, but people were charged for entertainment, for example.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of violating the proposed prohibition. To the extent that the bill would result in more convictions, local governments would incur increased costs of incarceration, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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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.