Legislative Analysis

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LIQUOR REVISIONS

Senate Bill 1558
Sponsor: Sen. Jason E. Allen
House Committee: Regulatory Reform
Senate Committee: Economic Development and Regulatory Reform

Complete to 12-9-08

A SUMMARY OF SENATE BILL 1558 AS PASSED BY THE SENATE 12-4-08

The bill would amend the Michigan Liquor Control Code (MCL 436.1525 et al.) to

- Allow certain retirement centers to sell beer, wine, and spirits for consumption on the premises; establish license fees for the new license category.
- Revise population figures regarding the coexistence of fuel pumps with SDD licenses.
- Permit the Liquor Control Commission to approve "alternating proprietor operations" involving wine makers or brewers.

The following describes the bill in more detail.

Nonpublic continuing care retirement center license. The bill would include a "nonpublic continuing care retirement center" in the classes of vendors that may sell alcoholic liquor at retail, and allow a licensed center to sell beer, wine, and spirits for on-premises consumption. The license fee for a nonpublic continuing care retirement center license would be $600. The bill would require the Liquor Control Commission (LCC) to grant a nonpublic continuing care retirement center license to an applicant that complied with the bill's requirements and require the LCC to publish a notice of intent to issue the license if an applicant had not existed for at least 10 years before the bill's effective date.

The new license would allow a nonpublic continuing care retirement center to serve beer, wine, mixed spirit drink, mixed wine drink, and spirits on the licensed premises to residents and their guests only for consumption on the licensed premises.

Under the bill, "nonpublic continuing care retirement center" would mean a residential community that, as determined by the LCC, meets both of the following:

- Provides full-time residential housing predominantly for individuals over 62 years of age.
- Is registered as a "facility" under the Living Care Disclosure Act (i.e., an adult foster care facility, nursing home, retirement home, home for the aged, or a place that undertakes to provide care to an individual for more than one year).

Fuel pumps and SDD licenses. Currently, the LCC cannot prohibit an SDD ("specially designated distributor" authorized to sell spirits for off-premises consumption) from owning or operating motor vehicle fuel pumps if the applicant or licensee is located in either (1) a city, incorporated village, or township with a population of 3,000 or less in a county with a population of 31,000 or more; or (2) a city, incorporated village, or township with a population of 3,500 or less in a county of under 31,000. The licensee must maintain a minimum inventory of $12,500, excluding alcoholic liquor and motor vehicle fuel, of goods and services customarily marketed by approved businesses. (There are some other cases where fuel pumps are allowed, but they are not affected by the bill.)

The bill would increase the population figures cite above from 3,000 to 3,500 in the larger counties and from 3,500 to 4,000 in the smaller counties. This would make the population limits for SDDs the same as those for SDMs (specially designated merchants, who are licensed to sell beer and wine, but not spirits.)

Alternating proprietor operations. The term "alternating proprietor operations" refers to arrangements in which two or more people take turns using the same physical premises and equipment to make wine or brew beer. The bill would allow the LCC to approve the following under R 436.1023(3) of the Administrative Code, subject to the written approval of the U.S. Department of Treasury, Bureau of Alcohol and Tobacco Tax and Trade:

- A wine maker participating with one or more wine makers in an alternating proprietor operation in accordance with federal regulations.
- A brewer participating with one or more brewers in an alternating proprietor operation in accordance with federal regulations.

The bill would specify that Section 603 of the code, which this provision would amend, would not prohibit a supplier from having any interest, directly or indirectly, in any other supplier. However, the bill would also specify that a manufacturer would be prohibited from having any interest, directly or indirectly, in a wholesaler. Further, the bill would prohibit a wine maker from collectively delivering wine, with any other wine maker, to a retail licensee.

FISCAL IMPACT:

Nonpublic Continuing Care Retirement Centers. Provisions permitting retirement centers to obtain a liquor license would increase liquor license revenue by an indeterminate, though not likely significant amount, based on the extent to which retirement centers obtain a license. Currently there are 23 facilities registered under the Living Care Disclosure Act. At most, additional license revenue would be approximately $13,800, although a facility under the Living Care Disclosure Act includes adult foster care facilities, nursing homes, homes for the aged, as well as retirement centers. Under Section 543 of the Liquor Control Code (MCL 436.543), 55% of retail liquor license revenue is paid to local units for enforcement of liquor laws, 41.5% is retained by the

LCC for licensing and enforcement activities, and 3.5% is expended by the Department of Community Health for alcoholism prevention and treatment programs.

Fuel Pumps/Population. The bill would have an indeterminate, though not likely significant fiscal impact on the state and local units of government. Increasing the population thresholds permitting (i.e. not prohibiting) specially designated distributor licensees from owning or operating a motor fuel pump on or adjacent to the licensed premises would increase liquor license revenue. Under Section 525 of the Liquor Control Code (MCL 436.1525), the SDD license fee is $150 per year, plus $3 for each $1,000 of liquor purchased from the LCC above $25,000. Again, the act provides that retail liquor license fee revenue is distributed among local units for enforcement (55%), the LCC for enforcement and administration (41.5%) and for alcohol abuse prevention and treatment (3.5%).

Alternating Proprietors. The bill would have an indeterminate fiscal impact on the state and local units of government. Easing ownership restrictions on related entities would likely result in an increase in the number of businesses engaged in the manufacture of wine or beer. The federal regulations referenced in the bill concern alternating proprietor arrangements, in which two or more entities take turns using the same space and equipment to manufacture beer or wine. Generally, under these arrangements, an existing manufacturer agrees to rent out its space and equipment to a new entrant into the market. [For further information on these regulations, see Alcohol and Tobacco Tax and Trade Bureau Industry Circular 2005-2 (beer) and Industry Circular 2008-4 (wine)]. Under Section 525 of the Liquor Control Code (MCL 436.1525), the license fee for the manufacture of beer is $50 per 1,000 barrels, up to $1,000, as well as a fee of $50 per vehicle used to deliver product to licensed retailers. The license fee for wine makers is $100 ($25 for wine makers who make less than 50,000 gallons). Under Section 543 of the Liquor Control Code (MCL 436.1543), non-retail license revenue is credited to the Grape and Wine Industry Council.

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