



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 1351 (Substitute S-2 as passed by the Senate)

(as enrolled)

Senate Bill 1352 (Substitute S-2 as passed by the Senate)

(as enrolled)

Sponsor: Senator Tupac A. Hunter (S.B. 1351)

Senator Jason E. Allen (S.B. 1352)

Committee: Economic Development and Regulatory Reform

Date Completed: 7-30-08

RATIONALE

Microbreweries and brewpubs have become increasingly popular in recent years, both in Michigan and around the country. Microbreweries are brewers that, under Michigan law, produce less than 30,000 barrels of beer per year and may sell beer to licensed wholesalers and to consumers at the licensed brewery premises for consumption on or off the brewery premises. Brewpubs are licensed operations authorized to brew not more than 5,000 barrels of beer per year and sell it at the licensed premises for consumption on or off the licensed premises, but are not authorized to sell to wholesalers. Brewers, microbrewers, and brewpubs often belong to trade associations or brewers' guilds that sometimes sponsor beer festivals to showcase their members' products and production techniques. These festivals are held for a limited time, in a particular location, under a special license issued by the Michigan Liquor Control Commission (LCC). Since brewers and microbrewers are authorized under their licenses to sell their products to wholesalers, the sponsors of beer festivals are able to feature beer produced by those types of operations by purchasing it from wholesale distributors. Brewpubs, however, may sell beer only to the consumer and not to another LCC licensee, which apparently prevents them from participating in the product promotion opportunity offered by beer festivals. It has been suggested that the Commission be authorized to issue special beer festival licenses and that a licensed brewpub be authorized to sell beer directly to a holder of a beer festival license specifically for participation in a festival.

CONTENT

The bills would amend the Michigan Liquor Control Code to allow the issuance of a license for a beer festival, and allow a brewpub to sell beer to the holder of such a license. "Beer festival" would mean an event at which the various types and kinds of beer and the production of that beer are showcased to the general public and at which the general public can purchase and sample the beer being showcased for consumption on the licensed premises.

The bills are tie-barred.

Senate Bill 1351 (S-2)

The bill would allow the Liquor Control Commission to issue a special license to any organization conducting a beer festival. An application for a special license issued under the bill would have to be submitted by a nonprofit entity composed primarily of brewers, microbrewers, and brewpubs, as determined by the Commission; involve an event having for its primary purpose the showcasing of beer and its production; and be accompanied by a fee of \$25 per day of the event.

The special license could not allow more than six events per calendar year. A holder of a special license could buy a quantity of beer, as determined appropriate under the circumstances by the Commission, directly from any licensed brewpub for consumption only at the licensed event.

Senate Bill 1352 (S-2)

The bill would allow a licensed brewpub to sell a quantity of beer determined appropriate by the Commission directly to a holder of a special license issued under Senate Bill 1351 (S-2), for the purpose of participating in a beer festival.

Proposed MCL 436.1526 (S.B. 1351)
Proposed MCL 436.1413 (S.B. 1352)

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 testimony before the Senate Economic Development and Regulatory Reform Committee by a representative of the Michigan Brewers Guild, there are more than 70 licensed brewing establishments in the State, Michigan has the sixth-largest number of breweries of all states, and the industry is growing in Michigan. A nonprofit corporation, the Guild was formed in 1996 with the mission of promoting the sale of Michigan-made beer. Most of the State's brewers are microbreweries and brewpubs, and beer festivals sponsored by the Guild are the primary promotion events for many of those brewers.

There seems to be some confusion over whether, and under what circumstances, beer produced by brewpubs may be included in beer festivals. Under the Michigan Liquor Control Code, brewpubs may sell beer at retail at the licensed premises for consumption on or off the licensed premises. According to the LCC, the Code does not authorize brewpubs to sell beer to wholesale distributors or any other licensee, including a special licensee sponsoring a beer festival. The LCC application form for a special license for on-premises consumption, however, indicates that beer may be purchased by the licensee from either a licensed wholesaler or a specially designated merchant (SDM) (a person licensed to sell beer and/or wine at retail for consumption off the licensed premises). Apparently, some brewpubs have an SDM license for the retail sale of beer in addition to their brewpub license.

To hold its festivals, the Michigan Brewers Guild obtains from the Commission a special license allowing it to include beer obtained from brewers and microbrewers, who may sell beer to licensed wholesalers under the terms of their licensure. Beer festival sponsors apparently have included beer purchased from brewpubs with an SDM license, under the terms for the purchase of beer for resale listed on the special license application. In any event, beer from most Michigan brewpubs is not allowed to be featured at beer festivals.

By authorizing the Commission to issue a special beer festival license to a nonprofit organization made up of brewers, microbrewers, and brewpubs, and specifically authorizing brewpubs to sell beer directly to the holder of a beer festival license for the purpose of participating in a beer festival, the bills would allow all Michigan brewpubs to take advantage of the marketing and promotional opportunities afforded by participation in beer festivals.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would increase revenue by a minimal amount by expanding the eligibility for special retail liquor licenses. Any additional revenue would be distributed according to the statutory formula for retail liquor licenses which provides 55% to local governments, 41.5% to the Liquor Control Commission, and 3.5% for the prevention and treatment of alcoholism.

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.