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**BILL ANALYSIS**

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House Bill 4684 (Substitute S-3)
Sponsor: Representative Frank Accavitti, Jr.
House Committee: Regulatory Reform
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 1-30-08

CONTENT

The bill would amend the Michigan Liquor Control Code to do all of the following:

- Include serving or furnishing alcohol in the prohibition against selling alcohol to an intoxicated person.**
- Codify several administrative rules pertaining to activities of licensed vendors of alcohol, and rescind those rules.**
- Prohibit the use of breathalyzer or blood alcohol test results to prove a violation of prohibitions against providing alcohol to an intoxicated person or to a minor.**

Serving or Furnishing Alcohol

The Code prohibits a vendor from selling alcohol to any person in an intoxicated condition. The bill would prohibit selling, serving, or furnishing alcohol to any person in an intoxicated condition.

Codification of Rules; Licensed Premises

The bill would prohibit a licensee from allowing a person who was in an intoxicated condition to consume alcohol on the licensed premises. A licensee, or the licensee's clerk, servant, agent, or employee could not be in an intoxicated condition on the licensed premises. A licensee could not allow an intoxicated person to frequent or loiter on the licensed premises. (These provisions would codify R 436.1005.)

Under the bill, a licensee could allow an intoxicated person to frequent or loiter on the licensed premises if he or she had been refused service of further alcohol and continued to remain on the premises for the purpose of eating food, seeking medical attention, arranging transportation that did not involve driving himself or herself, or any other circumstances in which requiring the person to vacate the premises immediately would be considered dangerous to that person or to the public. (These provisions are not in the rules.)

A licensee could not allow a minor (a person under 21 years of age) to consume alcohol or to possess alcohol for personal consumption on the licensed premises. A licensee could not allow any person under 18 to sell or serve alcohol, or allow a person under 18 to work or entertain on a paid or voluntary basis on the licensed premises unless he or she was employed in compliance with the Youth Employment Standards Act. The youth employment restriction, however, would not apply to an entertainer under the direct supervision and control of his or her parent or legal guardian. (These provisions would codify R 436.1009.)

A licensee could not allow unlawful gambling on the licensed premises and could not allow on the premises any gaming devices prohibited by law. (This would codify R 436.1013.)

A licensee could not sell, offer or keep for sale, furnish, possess, or allow a customer to consume alcohol that was not authorized by the license issued to the licensee by the Liquor Control Commission. A licensee also could not sell or furnish alcohol to a person who maintained, operated, or leased premises that were not licensed by the Commission and upon which other people unlawfully engaged in the sale or consumption of alcohol for consideration. (These provisions would codify R 436.1017.)

A retail licensee could not, on his or her licensed premises, sell, offer for sale, accept, furnish, possess, or allow the consumption of alcohol that the licensee had not purchased from the Commission or from a licensee of the Commission authorized to sell that alcohol to a retail licensee. This would not apply to the consumption of alcohol in the bedrooms or suites of registered guests of licensed hotels or in the bedrooms or suites of bona fide members of licensed clubs. (These provisions would codify R 436.1033.)

The bill would rescind Rules 436.1005, 436.1009, 436.1013, 436.1017, and 436.1033.

Breathalyzer Use

Under the bill, evidence of any breathalyzer or blood alcohol test results obtained in a licensed establishment, or on property adjacent to the licensed premises and under the control or ownership of the licensee, would not be admissible to prove a violation of prohibitions against serving an intoxicated person; allowing an intoxicated person to consume liquor on licensed premises or to frequent or loiter on licensed premises; serving liquor to a minor; or, if the offender were a licensee or a licensee's agent or employee, serving liquor in an intoxicated condition. The person's intoxicated condition at the time of the sale or consumption of alcohol would have to be proven by direct observation by law enforcement or Commission enforcement personnel or through other admissible witness statements or corroborating evidence obtained as part of the standard investigation other than breathalyzer or blood alcohol results.

MCL 436.1707 et al.

Legislative Analyst: Patrick Affholter

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.