

Legislative Analysis



WINE MAKERS AND BREWERS OF BEER: ALTERNATING PROPRIETOR OPERATIONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 202

Sponsor: Sen. Alan Sanborn

House Committee: Regulatory Reform

Senate Committee: Economic Development and Regulatory Reform

Complete to 2-23-09

A SUMMARY OF SENATE BILL 202 AS PASSED BY THE SENATE 2-18-09

The bill would allow the Michigan Liquor Control Commission to approve "alternating proprietor operations" involving wine makers or beer brewers.

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.

Specifically, the bill would amend the Liquor Control Code to allow the Liquor Control Commission 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.

Notwithstanding Section 109(1) of the code, "manufacturer" would mean a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, small distiller, brandy manufacturer, and mixed spirit drink manufacturer.

"Supplier" would mean a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits.

MCL 436.1603

FISCAL IMPACT:

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.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.