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BILL ANALYSIS

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Senate Bill 202 (Substitute S-1)
Sponsor: Senator Alan Sanborn
Committee: Economic Development and Regulatory Reform

Date Completed: 2-11-09

CONTENT

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

- **Specify that the Code's prohibitions regarding business relationships between manufacturers, wholesalers, and vendors would not prohibit a supplier from having any interest in any other supplier.**
- **Prohibit a manufacturer from having any interest in a wholesaler.**
- **Prohibit two or more wine makers from collectively delivering wine to a retail licensee.**
- **Allow the Liquor Control Commission (LCC) to approve alternating proprietor operations for a wine maker participating with one or more other wine makers and for a brewer participating with one or more other brewers, subject to State and Federal approval.**

Under the bill, "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. "Manufacturer" would mean a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, small distiller, brandy manufacturer, and mixed spirit drink manufacturer. (Under the Code, an "outstate" seller of beer, wine, or mixed spirit drink is someone licensed by the LCC to sell beer, wine, or mixed spirit drink that has not been manufactured in Michigan to a wholesaler in Michigan.)

Ownership Interest & Activities

Section 603 of the Code prohibits certain business relationship between manufacturers, wholesalers, and vendors (as described in **BACKGROUND**, below). The bill specifies that Section 603 would not prohibit a supplier from having any interest, directly or indirectly, in any other supplier.

The bill also would prohibit a manufacturer from having any direct or indirect interest in a wholesaler, and would prohibit a wine maker from collectively delivering wine, with any other wine maker, to retail licensees.

Alternating Proprietor Operations

The bill would allow the LCC to approve either of the following pursuant to administrative rule R 436.1023(3), 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 (27 CFR Part 24, Subpart D, Section 24.136, which provides for the operation of wine premises by alternating proprietors).

-- A brewer participating with one or more brewers in an alternating proprietor operation in accordance with Federal regulations (27 CFR Part 25, Subpart F, Section 25.52, which provides for exceptions to construction, equipment, and methods of operations of a brewer).

(Administrative Rule R 436.1023(3) prohibits a licensee from leasing, selling, or transferring possession of a portion of a licensed premises without the prior written approval of the LCC.)

MCL 436.1603

BACKGROUND

Section 603 of the Michigan Liquor Control Code prohibits a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, vendor of spirits, or outstate seller of beer, wine, or mixed spirit drink from having any financial interest in the establishment, maintenance, operation, or promotion of the business of any other vendor.

Those entitles, as well as a stockholder of any of them, also are prohibited from having an interest by ownership in fee, leasehold, mortgage, or otherwise, in the establishment, maintenance, operation, or promotion of the business of any other vendor.

In addition, a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, vendor of spirits, or outstate seller of beer, wine, or mixed spirit drink may not have an interest by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.

Section 603 also prohibits a person from buying the stock of any of those entities, placing the stock in any portfolio under an arrangement, written trust agreement, or form of investment trust agreement, issuing participating shares based upon the portfolio, trust agreement, or investment trust agreement, and selling the participating shares within this State.

These prohibitions are subject to a requirement that the Liquor Control Commission allow a small distiller to sell brands of spirits it manufacturers for consumption on the licensed premises at that distillery. The prohibitions also are subject to a provision that allows a brewpub to have an interest in up to two other brewpubs as long as the combined production of all of the locations in which the brewpub has an interest does not exceed 5,000 barrels of beer per year.

In addition, the prohibitions apply except as provided in Section 605, which pertains to the acquisition of real property by a brewer, manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, vendor of spirits, authorized distribution agent, or outstate seller of beer, wine, or mixed spirit drink.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would increase the costs of the Liquor Control Commission within the Department of Energy, Labor, and Economic Growth by a minimal amount due to potential expenses for registering changes of ownership that the bill would permit. The LCC is funded by several restricted fund sources, including liquor license revenue and the liquor purchase revolving fund.

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