

Legislative Analysis



LIQUOR LICENSE FOR CULINARY ARTS & HOSPITALITY PROGRAMS

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

Senate Bill 502 (Reported with Substitute H-1)

Sponsor: Sen. Mike Nofs

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

First Analysis (10-19-11)

BRIEF SUMMARY: Senate Bill 502 (H-1) would add Section 513a to the Liquor Control Code to allow accredited culinary arts and hospitality programs at a community college or university to obtain a liquor license to sell alcoholic liquor for consumption at the program's location.

The bill would also allow the LCC to issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of an outdoor stadium located on land owned by Lake Michigan College and leased to a private entity.

FISCAL IMPACT: Senate Bill 502 (H-1) would have a positive fiscal impact on state and local revenues, determined by the number of licenses that are applied for and approved for accredited culinary programs. The license application fees paid by community colleges and universities would increase revenue for liquor code enforcement activities for both the LCC and local units of government, as well as alcohol prevention and rehabilitation programs. To the extent that these new licenses increase the consumption of alcohol, the revenue from beer, wine, and specific liquor taxes would increase. These tax revenues would be deposited mostly within the General Fund, but also within the School Aid and Convention Facilities funds.

THE APPARENT PROBLEM:

Culinary arts and hospitality educational programs are growing in popularity across Michigan. Many of them operate on-site restaurants for students to be able to gain real world experience in cooking and restaurant management. As part of the curriculum, programs want the ability to serve alcohol with prepared meals. This will provide students with the opportunity to learn, for example, how to pair different beer and wines with particular cuts of meat and other foods. Currently, students are allowed to sample alcohol when preparing meals if it is intended for an educational purpose. However, unless specifically exempted by the Liquor Control Code, community colleges and universities that offer these programs cannot use or serve alcohol because the Liquor Control Code generally prohibits the Commission from issuing a license that would allow for liquor sales on state-owned land, including community college and university property. Although, community colleges may obtain special liquor licenses for individual events, only 12 such licenses can be issued to any one organization per year.

This bill would create a new class of licenses to allow for these programs to sell alcohol for on premises consumption, provided the program is accredited.

As stated above, the Liquor Control Code prohibits alcohol sales on state owned land. There appears to be an investment group hoping to locate a minor league baseball team (see Background Information: Northwoods League) on the grounds of Lake Michigan College. According to committee testimony, the organization is willing to renovate the current baseball facility to meet the needs of a minor league team. As is common with many small market franchises, revenues from concessions are important to the viability of the team. However, the Liquor Control Code would not currently allow the minor league baseball team to sell alcohol at games when leasing Lake Michigan College's facilities. This bill would provide an exemption to the Liquor Control Code to allow a private entity to receive a liquor license when leasing land from Lake Michigan College.

THE CONTENT OF THE BILL:

The bill would add Section 513a to the Michigan Liquor Control Code to allow the Liquor Control Commission to issue a liquor license to community colleges and public universities operating an accredited culinary arts or hospitality program for consumption at the program's location, under certain circumstances.

Specifically, beginning October 1, 2011, the LCC would be able to issue licenses to the governing board of a community college or university that operates an accredited culinary or hospitality program, and that is accredited by a nationally recognized accrediting agency, to sell alcoholic liquor for consumption at the program's location for activities that further the community college or university's' community or academic mission. Licenses issued under this new section would not be subject to the quota provisions of Section 531.

Under the bill, the sale of alcohol at a location other than the community college or university's culinary or hospitality program or at activities that do not further the community or academic mission of the community college or university would be prohibited. This would include public and private gatherings or meetings that have no direct correlation to the community college or university's community and academic mission. However, the bill would specifically allow the LCC to issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of an outdoor stadium located on land owned by Lake Michigan College and leased to a private entity.

Applicants would be required to submit the following information to the Commission:

- Documentation that the community college or university is accredited by a nationally recognized accrediting agency.
- Documentation that the culinary or hospitality program is accredited by a regionally recognized accrediting body **or** within 180 days after this bill takes

effect, a copy of the community college or university's application to a regionally recognized accrediting body for accreditation of its culinary or hospitality program

Licenses issued under this new section would be canceled if, within two years of applying for a license, a culinary or hospitality program is not accredited. Exceptions can be granted if the college or university demonstrates good cause for a time extension to obtain accreditation. Any community college or university that holds a liquor license under this new section would be prohibited from obtaining a catering permit under Section 547.

The bill also contains a provision prohibiting a community college or university from selling alcoholic liquor under this new section in any manner that unfairly competes with the private sector.

"Community college" would be defined as a community college established under the Community College Act of 1966, Public Act 331 of 1966, MCL 389.1 to 389.195.

"University" would be defined as a public university described in Section 4, 5, or 6 of Article VIII of the State Constitution of 1963.

[Senate Bill 502 contains many of the same provisions as House Bill 4744, which was reported out of the House Regulatory Reform committee on June 22, 2011.]

MCL 436.1101 to 436.2303

HOUSE COMMITTEE ACTION:

The committee reported the Senate passed version with amendments as substitute H-1.

BACKGROUND INFORMATION:

Overview of Programs Offered. According to data from the Workforce Development Agency there are 10 community colleges that offer culinary arts program.¹ Of those programs, Section 513 of the Liquor Control Code already provides a liquor license to the Oakland Community College Culinary Studies Institute. The bill further limits the granting of a liquor license to those community colleges with accredited culinary programs. Of those programs, the American Culinary Federation Education Foundation Accrediting Commission (ACFEFAC) lists seven community college culinary arts programs as being accredited.² There do not appear to be any culinary arts programs offered by state universities.

¹ See, <http://www.michigancc.net/ccdata/sd/pi.aspx>. Grand Rapids Community College, Henry Ford Community College, Jackson Community College, Macomb Community College, Monroe County Community College, Mott Community College, Northwestern Michigan College, Oakland Community College, Schoolcraft College, and Washtenaw Community College. These colleges offer programs with Classification of Instructional Program (CIP) Codes 12.0503, 12.0504, and 12.0505.

² <http://www.acfchefs.org/Source/Schools/Postsecondary.cfm>. The seven colleges are Oakland Community College, Northwestern Michigan College, Henry Ford Community College, Macomb Community College, Schoolcraft

Additionally, the bill also provides a liquor license to accredited community college or university hospitality programs. According to the Workforce Development Agency and National Center for Education Statistics data, there are 11 community colleges that offer hospitality management programs.³ Additionally, the National Center for Education Statistics data indicates that six universities offer hospitality management programs.⁴ Of these schools, the Accreditation Commission for Programs in Hospitality Administration (ACPHA) lists Eastern Michigan University as being the only Michigan institution with a hospitality program accredited by the commission.⁵ All community colleges and universities are, however, accredited at the institutional level by the Higher Learning Commission.⁶

Inactivity Period. The Michigan Administrative Code requires liquor licenses that are not active for a period more than 30 days to be placed in escrow with the Liquor Control Commission. It is possible licenses granted under this new section would need to be placed in escrow during summer sessions when class offerings are generally reduced or during semesters when particular classes may not be offered. The Administrative Code contains specific guidelines on how to get a license out of escrow, and contains penalties for not placing a license in escrow, when required. The following rules would apply during periods of inactivity:

- R 436.1107(1): "...A license that is not in active operation shall be placed in escrow with the Commission..."
- R 436.1047, Rule 47: "A licensee who ceases active operation of the licensed business for a period of more than 30 days shall return all current licenses and permits to the Commission."

Northwoods League. According to its website, the Northwoods League is a summer baseball league composed of teams of top college players from across the nation. All players in the league are required to have NCAA eligibility remaining and no players are compensated for playing (thus preserving their amateur status). Each team is operated similar to a professional minor league team. For more information on the Northwoods League and its affiliates please visit <http://www.northwoodsleague.com/>.

College, Grand Rapids Community College, and Washtenaw Community College. In addition to the American Culinary Foundation accreditation, there may be other accrediting organizations.

³ See, <http://nces.ed.gov/ipeds>. See, also <http://www.michigancc.net/ccdata/sd/pi.aspx>. Bay de Noc Community College, Henry Ford Community College, Jackson Community College, Lake Michigan College, Lansing Community College, Macomb Community College, Mid-Michigan Community College, North Central Michigan College, Oakland Community College, Washtenaw Community College, and Wayne County Community College District.

⁴ <http://nces.ed.gov/ipeds/>. Michigan State University, Grand Valley State University, Ferris State University, Eastern Michigan University, Central Michigan University, and Northern Michigan University.

⁵ <http://www.acpha-cahm.org/>

⁶ <http://www.ncahlc.org/>

ARGUMENTS:

For:

During committee testimony supporters expressed concern that students are missing out on an important part of a culinary education by not being able to pair drinks with prepared dishes. An integral part of a culinary arts program is utilizing alcohol in cooking, pairing, and tasting. This legislation will allow students to fully use these on-campus restaurants and gain valuable knowledge and experience. It was noted that culinary school graduates are the breeding ground for future restaurant professionals and this will continue to allow restaurants to stay on the cutting edge.

This legislation will also allow community colleges and universities that operate these programs to continue to serve the community's need for entertainment and the arts. As noted during testimony on House Bill 4744, Jackson Community College operates the George E. Potter Center, which hosts many events, including the Jackson Symphony Orchestra. These events are seen as helping "advance the mission" of the college and supporters of this legislation would like the ability to provide alcoholic beverages at these events. Currently, JCC is required to apply for a special one-day liquor license in order to be able to sell alcohol at its events. This bill will reduce the number of applications necessary and allow the school, and others in similar situations, to apply for a single license.

Supporters of the legislation believe it allows for fairness in how the LCC can grant liquor licenses to community colleges and universities. Currently, a community college or university that wants to receive a liquor license for its culinary arts or hospitality program has to be specifically named in the Liquor Control Code. This bill would apply the same criteria to all eligible programs, including those that are not permitted under the Code currently.

The bill also appears to prevent culinary arts programs from unfairly competing with the private sector. The bill requires programs to be accredited and would prohibit sales at a site other than the program's location or at activities that do not further the school's community or academic mission. Additionally, the school could not assign the license to a private entity (except as provided for Lake Michigan College) and cannot obtain a catering permit under the Code. The bill also contains a provision prohibiting a community college or university from selling alcoholic liquor under this new section in *any manner that unfairly competes with the private sector.*

For:

Allowing Lake Michigan College in southwestern Michigan to lease its baseball facility to a private entity for the purpose of re-locating a baseball team would appear to serve three main purposes. First, it would allow Lake Michigan College to receive an upgrade to its baseball facility at no cost to the college. Testimony was given that the private entity leasing the field would finance the needed upgrades to make it a suitable facility for high-level amateur baseball. Second, it would attract community members to the Lake Michigan College campus and allow for a greater understanding of what the college

offers. Third, it would provide a new source of entertainment and may generate additional revenue for the area.

Against:

There was concern expressed that this bill is dealing with two separate issues and the provision providing a liquor license exemption for leased land at Lake Michigan College causes confusion. The main intent of this bill seems to be aimed at providing a liquor license exemption for culinary arts and hospitality programs. The leasing of a baseball field at Lake Michigan College has no apparent connection to its culinary arts program (which is already permitted to obtain a liquor license) and it may be more appropriate to address that issue in a separate bill.

Some are opposed to this legislation simply because of the sheer number of liquor licenses already available. According to a recent special report by the Center for Michigan, there are currently 27 different types of liquor licenses currently available.⁷ Some people oppose the LCC being able to grant any new type of license. Further, some believe that the greater the availability of alcohol, the greater the number of alcohol-related problems for individuals and society at large.

As amended, the bill would prohibit community colleges and universities from selling alcoholic liquor in a way that "unfairly competes" with the private sector. There was concern that the bill does not define "unfairly competes" and provides no course of action for a private entity that feels that is suffering unfair competition. It was suggested the ambiguity of the language could lead to an increase in litigation.

Some feel it sets a bad precedent for a publicly funded organization, like Lake Michigan College, to lease its land and facilities to allow private business ventures to generate income. It may be more appropriate for the private entity to buy the property outright or to build a facility at a different location. There were also questions as to who is responsible for the long term obligation of the facility once it is constructed. Committee testimony seemed to point to Lake Michigan College being responsible for the facility should the Northwoods League team find another venue in the future. A representative of Lake Michigan College indicated the college was aware of and able to meet potential obligations.

POSITIONS:

Henry Ford Community College supports the bill. (10-12-11)

Jackson Community College supports the bill. (10-5-11)

Lake Michigan College supports the bill. (10-5-11)

The Northwoods League supports the bill. (10-5-11)

⁷ <http://www.thecenterformichigan.net/special-report-michigans-regulation-of-liquor-business-is-sobering/>

Washtenaw Community College supports the bill. (10-12-11)

The Michigan Department of Licensing and Regulatory Affairs is neutral on the bill. (10-5-11)

Michigan Liquor Control Commission (LCC) is neutral on the bill. (10-5-11)

Michigan Licensed Beverage Association is neutral on the bill. (10-5-11)

Michigan Restaurant Association is neutral on the bill. (10-5-11)

Legislative Analyst: Jeff Stoutenburg
Fiscal Analyst: Paul Holland

■ 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.