

Legislative Analysis



PROHIBIT POWDERED ALCOHOL; AND OTHER LIQUOR CODE AMENDMENTS

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House Bill 5798 (substitute H-1)
Sponsor: Rep. Hugh Crawford
Committee: Regulatory Reform

Complete to 9-23-14

A SUMMARY OF HOUSE BILL 5798 AS REPORTED FROM COMMITTEE 9-16-14

House Bill 5798 would amend the Michigan Liquor Control Code (MLCC) by prohibiting the sale, possession, and use of powdered alcohol, and modifying several other sections as detailed below.

Powdered alcohol

The bill would add a Section 914A to the act. This section would define powdered alcohol as alcohol that is sold in powder form for either direct use or reconstitution. An individual would be prohibited from using, possessing, selling, or offering for use or sale, powdered alcohol. A person violating this prohibition would be guilty of a misdemeanor punishable by imprisonment for not more than six months or a fine of not more than \$500, or both.

This ban would not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

Brewpub licensing

Currently, the Michigan Liquor Control Commission is required to issue a brewpub license to a person who is licensed as a food service establishment under Part 129 (Smoke-Free Service Establishments) of the Public Health Code (PA 368 of 1978). The bill would require that the person be licensed under the Food Law (PA 92 of 2000) instead. A reference to the maximum number of barrels that can be produced by a brewpub would be changed from 5,000 to 18,000 to reflect changes made to the Liquor Control Code by Public Act 43 of 2014 (House Bill 4710).

Definition changes

The definition of "alcoholic liquor" would be amended to include powder which contains one-half of one percent or more of alcohol by volume for food or beverage purposes. Currently, the definition does not refer to "food purposes."

Also amended would be the term "other valuable thing," which would be modified by adding "consumable goods" to a list of exceptions for items that can be given, loaned,

leased, or sold to another licensee as allowed either by rule or by order of the Michigan Liquor Control Commission prior to January 1, 2014.

Brandy manufacturer

The definition of brandy manufacturer would be rewritten to refer to "a wine maker or a small wine maker licensed under this act to manufacture, rectify, or blend brandy only and no other spirit. The commission may approve a brandy manufacturer to sell brandy that it manufactures, blends, or rectifies, or both, at its licensed premises or at other premises authorized in this act." The current definition also states that only a licensed wine maker or small wine maker is eligible to be a brandy manufacturer.

Conditional liquor license

The bill would add the requirement that an individual applying for a conditional liquor license when applying for the transfer of an existing license at the same location would have to include any existing permits and approvals held in connection with that license.

Approved bar items

House Bill 5798 also would add *keg couplers that are lent to an on-premises retailer and sporting event or entertainment tickets* to a list of items that a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate of mixed spirit drink, or vendor of spirits may provide to another licensee under Section 609(3). The bill would add a new Section 609(4), and renumber the subsequent subsections. The new subsection would allow a wholesaler to sell brand logoed items to an off-premises licensee if those brand logoed items are contained with the packaging of an alcoholic liquor product that is to be sold to a consumer. A retailer would not be allowed to possess at its licensed premises advertising items that have a use or value beyond the actual advertising of brands and prices of alcoholic liquor, with the exception of the items listed in Section 609(3) and 609(4). Currently, only the items in Section 609(3) are exempted. The bill would add Section 609(4).

BACKGROUND:

Powdered alcohol is a relatively new substance which was approved, then unapproved, by the US Alcohol and Tobacco Tax and Trade Bureau earlier this year. Palcohol, the brand that submitted itself to the bureau for approval, comes in a bag that contains approximately one shot's worth of alcohol and is meant to be mixed with about five ounces of water, according to Mark Phillips, the product's CEO, in a video posted to YouTube.

Critics of the product have voiced concerns that the product will be easier to abuse than liquid alcohol, due to its form. Additionally, there are worries that it will be easier for minors to acquire. In his video, Phillips attempted to refute these claims, noting that snorting the product would be "very painful." He also states it would be no easier for minors to acquire powdered alcohol than liquid alcohol if regulated similarly.

Powdered alcohol has existed in concept since the 1970s. According to the patent, the alcohol is broken down using a process called hydrolysis, which breaks down a

carbohydrate into a white powder. That powder is then combined with pure liquid alcohol, which then sticks to the powder. Palcohol is a propriety substance, however, and its makers have not revealed their particular process to the public.

FISCAL IMPACT:

There would be no significant fiscal impact for the Liquor Control Commission or the Department of Licensing and Regulatory Affairs.

The bill adds a new misdemeanor. Misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Misdemeanor fines go to public libraries.

POSITIONS:

The following have indicated support for the bill:

Michigan Liquor Control Commission (9-16-14)

Anheiser Busch (9-16-14)

Miller Coors (9-16-14)

Michigan Beer and Wine Wholesalers Association (9-16-14)

Michigan Licensed Beverage Association is neutral on the bill. (9-16-14)

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■ 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.