

Legislative Analysis



INCLUDED POWDERED ALCOHOL AS ALCOHOL; AND OTHER LIQUOR CODE AMENDMENTS

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House Bill 5798 as enrolled
Public Act 353 of 2014
Sponsor: Rep. Hugh Crawford
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Complete to 2-20-15

A SUMMARY OF HOUSE BILL 5798 AS ENROLLED

House Bill 5798 amended the Michigan Liquor Control Code (MLCC) to add powdered alcohol to the definition of "alcoholic liquor", to amend provisions relating to brewpubs, and to make other general revisions as detailed below.

[Note: The as-introduced and H-1 substitute versions of this bill included prohibitions on the use of powdered alcohol. This was removed by amendment during the bill's third reading in the House on September 24, 2014.]

Definition changes

The definition of "alcoholic liquor" was amended to include "powder" if that powder 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 was the term "other valuable thing," which was 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.

Brewpub licensing

Previously, one of the criteria for an establishment to receive a brewpub license from the Michigan Liquor Control Commission was to be 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 instead require that the person be licensed under the Food Law (PA 92 of 2000). 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).

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." This does not appear to be a substantive change; 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 would have to include any existing permits and approvals held in connection with that license when applying for the transfer of an existing license at the same location.

Approved bar items

House Bill 5798 added (1) *keg couplers that are lent to an on-premises retailer* and (2) *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).

Fingerprinting

Additionally, the bill added the requirement that if the Michigan Liquor Control Commission requires an applicant to submit fingerprints, the prints must be taken by a local law enforcement agency, the Michigan State Police or any person qualified to take fingerprints, as determined by the MSP. The applicant would also be responsible for submitting the prints, along with the appropriate state and federal fees, to the MSP or FBI for a criminal history check. After the check has been completed, the MSP would have to provide the commission with a report of the criminal history check and would also be required to notify the commission if the applicant's fingerprints match a criminal arrest fingerprint card subsequently submitted to the MSP.

BACKGROUND INFORMATION:

Powdered alcohol is a relatively new substance which was approved, then unapproved, by the US Alcohol and Tobacco Tax and Trade Bureau last 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.

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