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Senate Bill 109 (as introduced 1-30-13)  
Sponsor: Senator Dave Hildenbrand  
Committee: Regulatory Reform

Date Completed: 3-14-13

### **CONTENT**

**The bill would amend the Michigan Liquor Control Code to provide for the issuance of a conditional liquor license after a person had submitted an application for a license under the Act, as follows:**

- **A conditional license could be issued to an applicant seeking to transfer ownership of or an interest in an existing license at the same location, or to an applicant for an initial license.**
- **The Liquor Control Commission would have to issue an approved conditional license within 20 business days of a request involving a single location, or 30 business days for multiple locations.**
- **A conditional license would expire when the Commission approved or denied the license that was the basis for the conditional license; 180 days after it was issued; or when the initial application was canceled, whichever occurred first.**
- **The fee for a conditional license would be \$300.**
- **Upon issuing a conditional license and until it expired, the Commission would have to place an existing license in escrow.**

Specifically, if an applicant complied with the requirements described below, the Liquor Control Commission would have to approve or deny a conditional license to either of the following:

- An applicant seeking to transfer ownership of or an interest in an existing license at the same location to sell alcoholic liquor for consumption on or off the premises.
- An applicant seeking an initial license to sell alcoholic liquor for consumption on or off the premises, except for a specially designated distributor license (which allows a business to sell package liquor for off-premises consumption).

The applicant would have to submit proof of issuance of the applicant's current, temporary, or permanent certificate of occupancy by a local unit of government; submit a complete license application; file an acceptable proof of financial responsibility form; and pay the applicable licensing fee. Before approving or denying a conditional license, the Commission would have to consider the arrest and conviction records or previous violation history in the management, operation, or ownership of a licensed business.

The Commission would have to issue a conditional license to an approved applicant within 20 business days of the request for a conditional license at a single location. The Commission could take up to 30 business days to issue a conditional license to an applicant

for multiple locations. The bill also provides that the Commission could expedite the processing of an application by an applicant currently holding a license issued under the Act. (The standard deadline for the Commission to issue a license is 90 days after the applicant files a completed application.)

A conditional license would expire upon the earliest of the following:

- When the Commission denied the license application that served as the basis for the conditional license, after all administrative remedies before the Commission had been exhausted.
- Twenty business days after the Commission approved the license application that served as the basis for the conditional license.
- When the licensee or conditional licensee notified the Commission in writing that the initial application should be canceled.
- One hundred eighty days after the date the conditional license was issued.

If a conditionally approved licensee failed to maintain acceptable proof of its financial responsibility, the Commission would be required, after notice and hearing, to suspend the conditional license until the licensee filed an acceptable proof of financial responsibility form.

If a conditional license were revoked, the licensee could not recover from a local unit of government any compensation for property, future income, or future economic loss due to the revocation.

When a conditional license was issued and until it expired, the Commission would have to place an existing license in escrow in compliance with R 436.1107 of the Michigan Administrative Code. If the conditional license expired because a transfer of an existing license was denied or because the license was not transferred within the 180-day period, an existing licensee could request the Commission to release the license from escrow, or could keep the license in escrow. The escrow date for compliance with R 436.1107 would be the date the conditional license expired.

(Rule 436.1107 requires a license that is not in active operation to be placed in escrow with the Commission; generally gives the licensee five years after the expiration date of the escrowed license to put it into active operation; and requires the license to be renewed in the same manner as an active license.)

MCL 436.1525

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have a minor, but likely positive fiscal impact on the Department of Licensing and Regulatory Affairs and local law enforcement departments. The bill would allow on- and off-premises license applicants to pay a \$300 fee for a conditional license after certain requirements were met. The Michigan Liquor Control Commission would retain 50% of the revenue from these fees to fund its operations, and 50% would go to local law enforcement. To the extent that the additional revenue would be greater than the costs associated with conditional licenses for both the Commission and local law enforcement, the bill would have a positive fiscal impact for those entities.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.