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BILL ANALYSIS



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House Bill 5798 (Substitute H-1 as passed by the House)
Sponsor: Representative Hugh Crawford
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 10-1-14

CONTENT

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

- **Include powder containing 0.5% or more of alcohol by volume in the definition of "alcoholic liquor", and refer in that definition to substances fit for food or beverage purposes.**
- **Increase from 5,000 to 18,000 the number of barrels of beer that a brewpub may manufacture and brew per year.**
- **Require an applicant, if the Liquor Control Commission (LCC) required him or her to submit fingerprints, to have his or her prints taken and submit them to the Michigan Department of State Police (MSP) and FBI for a criminal history check.**
- **Require a conditional license for the transfer of a license at an existing location to include any permits and approvals held with that license.**
- **Expand the items that some licensees may give to another licensee.**
- **Allow a wholesaler to sell brand logoed items within the packaging of an alcoholic liquor product to an off-premises licensee.**

Powdered Alcohol

The Code defines "alcoholic liquor" as any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing one-half of 1% or more of alcohol by volume that are fit for use for beverage purposes as defined and classified by the LCC according to alcoholic content as belonging to one of the varieties defined in the Code.

The bill would add powder to the definition and would refer to any of those substances that were fit for use for food purposes or beverage purposes as defined and classified by the Commission.

Brewpubs

Under the Code, the LCC must issue a brewpub license to a person who is licensed as a food service establishment and who has, and continues to have, one of several on-premises liquor licenses.

The Code defines "brewpub" as a license issued in conjunction with a Class C, tavern, Class A hotel, or Class B hotel license, authorizing the licensee to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell the beer produced at those

licensed premises for consumption on or off the licensed brewery premises. (Each of the other types of licenses allows the sale of beer and wine, or beer, wine, and spirits, for on-premises consumption.)

The bill would increase to 18,000 barrels the maximum amount of beer that a brewpub may manufacture and brew per calendar year.

Fingerprinting

The bill specifies that, if the LCC required an applicant for licensure under the Code to submit fingerprints, the applicant would have to have the fingerprints taken by a local law enforcement agency, the MSP, or any other person qualified to take fingerprints as determined by the MSP. The applicant would have to submit the fingerprints and the appropriate State and Federal fees, which would have to be borne by the applicant, to the MSP and the FBI for a criminal history check.

After conducting the criminal history check, the MSP would have to give a report of it to the LCC. The report would have to contain criminal history record information concerning the applicant that was maintained by the MSP. If a criminal arrest fingerprint card were subsequently submitted to the MSP and matched against a fingerprint submitted under the bill and stored in the automated fingerprint identification system (AFIS) database, the MSP would have to notify the LCC.

Conditional License

Under the Code, if, in addition to a completed application for a liquor license, an applicant submits a separate form requesting a conditional license, the LCC must 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 bill would require a conditional license for the transfer of an existing license at the same location to include any existing permits and approvals held in connection with that license.

Secondary Use Restrictions/Brand Logoed Items

Under the Code, except for orders that were approved for specific sponsorship or festivals, a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may provide goods and services to another licensee that the LCC approved pursuant to rules or order adopted before January 1, 2014, and the following advertising items:

- Alcoholic liquor recipes literature.
- Calendars and matchbooks.
- Removable tap markers or signs.
- Table tents.
- Shelf talkers.
- Bottle neckers.
- Cooler stickers.
- Blinking and nonblinking buttons.
- Menu clip-ons.
- Mirrors.

- Napkin holders.
- Spirits cold shot tap machines.
- Alcoholic liquor drink menus.

The bill would delete the term "advertising" from that provision and would add the following to the list of items that may be provided to another licensee:

- Keg couplers that were lent to an on-premises retailer.
- Sporting event or entertainment tickets.

The Code prohibits a retailer from using or possessing, at its licensed premises, advertising items that have a use or value beyond the actual advertising of brands and prices of alcoholic liquor except for those items listed above or as otherwise described below.

The Code permits a retailer to possess and use brand logoed barware that advertises spirits as long as those items are purchased from a manufacturer of spirits, vendor of spirits, salesperson, broker, or barware retailer. A retailer also may possess and use brand logoed barware that advertises beer or wine as long as those items are purchased from a barware retailer. The retailer must maintain the receipts of all purchased brand logoed barware for at least three years and make them available for inspection by the LCC. Beginning in the 2015 licensing year, a retailer must disclose, on the application for renewal of an existing license and in a manner the LCC prescribes, if the retailer purchased any barware during the immediately preceding license year.

The Code defines "barware" as the following brand logoed items: trays, coasters, napkins, shirts, hats, pitchers, drinkware that is intended to be reused, bar mats, buckets, bottle openers, stir rods, patio umbrellas, any packaging used to hold and deliver alcohol that a retailer purchases, and any other items added by the LCC, by rule.

The bill also would allow a wholesaler to sell brand logoed items to an off-premises licensee if those brand logoed items were contained within the packaging of an alcoholic liquor product that was to be sold to a consumer.

MCL 436.1105 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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.