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BILL ANALYSIS

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Senate Bill 448 (Substitute S-1 as reported)
Sponsor: Senator John Proos
Committee: Regulatory Reform

CONTENT

The bill would amend the Michigan Liquor Control Code to require, beginning January 1, 2017, each bottle of spirits produced in the first 60,000 gallons manufactured by a distiller in a calendar year to return a gross profit to the Liquor Control Commission of not more than 20%. Each bottle produced after the first 60,000 gallons of spirits manufactured by a distiller in a calendar year would have to return a gross profit of at least 51% but not more than 65%.

The Code permits the Commission to establish uniform prices for the sale of alcoholic liquor by specially designated distributors (businesses licensed to distribute packaged liquor for off-premises consumption). The prices must return a gross profit to the Commission of at least 51%, but not more than 65%. Under the bill, this requirement would apply through December 31, 2016.

MCL 436.1233 Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have a negative impact on the State General Fund of between $22.3 million and $35.0 million per year, and no fiscal impact on local units of government. The bill would establish two markup rates for the Michigan Liquor Control Commission (MLCC) to use when creating list prices for spirits; the first markup rate of not greater than 20% would apply for the first 60,000 gallons sold by a distiller or small distiller, and the second markup rate of between 51% and 65% (the same as current law) would apply to all sales beyond 60,000 gallons. It is not clear how the MLCC would implement two separate markup rates that would essentially depend on when and if a distillery sold more than 60,000 gallons in Michigan.

There are no data available for providing a precise estimate of what these payments would cost, as the MLCC tracks spirits sales by brand, but not by distiller. A single distillery often supplies spirits for a number of brands, so subjecting the sales of all of the brands themselves to the 60,000-gallon limit would overestimate the amount lost under the reduced markup. However, the top 20 brands in terms of sales appear to be from distilleries registered with the U.S. Alcohol and Tobacco Tax and Trade Bureau or foreign companies, rather than subsidiary brands of a larger distillery. In 2013, the top 20 distilleries sold 16.0 million out of 17.0 million gallons, or about 94.1%, of the total spirits sold in Michigan that year. Of the 16.0 million gallons sold by the 20 highest-volume distilleries, 1.2 million gallons would be subject to lower markup under the bill. In 2013, the average markup on a gallon of spirits was $25.51[1]. Assuming the first 60,000 gallons sold by the top 20 distilleries were at the

[1] Imputed using information provided in the 2013 MLCC Annual Report. The average markup per gallon was obtained by dividing total cost of goods sold ($666,030,785) by the number of gallons sold (16,968,827) and then multiplying by 0.65.

average price, the reduced markup under the bill would result in the loss of about $21.2 million for 94.1% of the total spirits sold during that year. Revenue lost from the reduced markup on the remaining 1.0 million gallons of spirits would depend largely on the number of distilleries that sold less than 60,000 gallons each year. Using the average markup, the revenue lost from the reduced markup for the last 1.0 million gallons could range between $1.1 million and $13.8 million. The low-end figure assumes one very large distillery provides distilled spirits wholesale of all brands sold in Michigan other than the 20 highest-volume ones, and the high-end figure assumes the remaining 1.0 million gallons are sold by individual distilleries that each supply a single brand. In total, the reduced markup required under the bill would result in the loss of between $22.3 million and $35.0 million annually.

The cost of reduced markups under the bill would first be borne by the Liquor Purchase Revolving Fund, the enterprise fund used by the MLCC to conduct the State's spirits sales business. At the end of each fiscal year, the operating income of the Fund ($168.6 million in fiscal year (FY) 2012-13; $195.7 million in FY 2014-15) is transferred to the State General Fund. Because of this transfer each year, the long-term costs of the bill would be borne by the State General Fund.

Date Completed: 5-24-16 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.