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BILL ANALYSIS

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Senate Bill 448 (as introduced 9-9-15)
Sponsor: Senator John Proos
Committee: Regulatory Reform

Date Completed: 5-18-16

CONTENT

The bill would amend the Michigan Liquor Control Code to require the Liquor Control Commission to pay a distiller or small distiller two-thirds of the gross profit generated from the sale of its manufactured spirits by specially designated distributors that the Commission received in a calendar year, for the first 60,000 gallons of spirits sold in the calendar year that were manufactured by the distiller or small distiller.

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 may not exceed 65%. If alcoholic liquor purchased by the Commission has not met sales standards established by the Commission for a period of six months, the Commission may sell the alcoholic liquor at a price approved by the State Administrative Board.

The Code also requires a discount of 17% to be deducted from the sale price established by the Commission on the sale of alcoholic liquor made by the State to specially designated distributors and establishments licensed to sell for consumption on the premises.

The bill states that, on request of a distiller or small distiller and, on a form prescribed by the Commission, the Commission would have to pay the distiller or small distiller two-thirds of the gross profit described above that the Commission received in a calendar year on the sale of spirits manufactured by the distiller or small distiller. The required payment would apply only to the first 60,000 gallons of spirits sold in the calendar year that were manufactured by the distiller or small distiller. A distiller or small distiller would have to file the request by April 15 of the year after the calendar year for which the payment was requested. The Commission would have to make the payment to the distiller or small distiller within 90 days after receiving the request.

(The Code defines "distiller" as a person licensed to manufacture and sell spirits or alcohol, or both, of any kind. A "small distiller" is a manufacturer of spirits that annually manufactures in Michigan not more than 60,000 gallons of spirits, of all brands combined.)

The bill would take effect 90 days after its enactment.

MCL 436.1233

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have a negative impact on the State General Fund of between $21.4 million and $33.7 million per year, and no fiscal impact on local units of government. Under the bill, a distiller or small distiller would be eligible for a payment of two-thirds of the 65% retail markup on distilled spirits that is levied by the Michigan Liquor Control Commission (MLCC) on all distilled spirits sold in Michigan. The payment would be for only the first 60,000 gallons sold by a given distiller or small distiller each year.

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 payments the MLCC would make under the bill. 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 a refund payment 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 average price, the refund payments under the bill would cost $20.4 million for 94.1% of the total spirits sold during that year. The refund payments 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 cost of refund payments for the last 1.0 million gallons could range between $1.0 million and $13.3 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 refund payments required under the bill would cost between $21.4 million and $33.7 million.

The cost of refund payments under the bill would first be borne by the Liquor Purchase Revolving Fund (LPRF), 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 LPRF ($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 refund payments would be borne by the State General Fund.

Fiscal Analyst: Josh Sefton

[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.