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BILL



ANALYSIS

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House Bill 4895 (Substitute H-2 as passed by the House)
Sponsor: Representative Aric Nesbit
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 3-23-16

CONTENT

The bill would amend provisions of the Michigan Liquor Control Code under which a specially designated merchant (SDM) or a specially designated distributor (SDD) may own or operate fuel pumps on or adjacent to the licensed premises, to do the following:

- **Reduce the minimum distance required between where fuel is dispensed and where liquor is sold from 50 to five feet, for a licensee that is located in a neighborhood shopping center or has a minimum required inventory.**
- **Allow an SDM to own or operate motor vehicle fuel pumps if the licensee were the only person in a township that owned or operated fuel pumps.**
- **Allow an SDM meeting the neighborhood shopping center or minimum inventory condition (a "primary location") to obtain a "secondary location permit" for the sale of beer and/or wine at a secondary location where the SDM or a subsidiary or affiliate owned or operated fuel pumps, on or adjacent to the primary location.**
- **Prescribe an initial permit fee of \$100 and a renewal permit fee of \$100.**

(A specially designated merchant is authorized to sell beer or wine, or both, at retail for consumption off the licensed premises. A specially designated distributor is a person engaged in an established business licensed by the Commission to distribute spirits and mixed spirit drink in the original package for off-premises consumption.)

The bill would take effect 90 days after enactment.

SDM or SDD Licensee Owning or Operating Fuel Pumps

Currently, the Commission must allow an applicant for or the holder of an SDM license or an SDD license to own or operate motor vehicle fuel pumps on or adjacent to the licensed premises if the applicant or licensee meets either of the following:

- **Is located in a neighborhood shopping center composed of one or more commercial establishments organized or operated as a unit that is related in location, size, and type of shop to the trade area the unit serves, which provides at least 50,000 square feet of gross leasable retail space and five private off-street parking spaces for each 1,000 square feet of gross leasable retail space.**
- **Maintains a minimum inventory on the premises, excluding alcoholic liquor and fuel, of at least \$250,000, at cost, of those goods and services customarily marketed by approved types of businesses.**

In addition, the site of payment and selection of alcoholic liquor must be at least 50 feet from the point where fuel is dispensed.

Under the bill, the site of payment and selection of liquor would have to be at least five feet from the point where fuel was dispensed.

The bill also would delete the current description of a neighborhood shopping center, and would define "neighborhood shopping center" in generally the same manner, but would require the shopping center to have access to off-street parking spaces, instead of five spaces for each 1,000 square feet of gross leasable retail space.

(Licensed premises that met these conditions would be a "primary location" for purposes of a secondary location permit, as discussed below.)

In addition, the Commission currently may not prohibit an applicant for or the holder of an SDM license from owning or operating motor fuel pumps on or adjacent to the licensed premises if 1) the applicant or licensee is located in a city, incorporated village, or township with a population of 3,500 or less and a county with a population of 31,000 or more, or in a city, incorporated village, or township with a population of 4,000 or less and a county with a population of less than 31,000; and 2) the applicant or licensee maintains a minimum inventory on the premises, excluding liquor and fuel, of at least \$10,000, at cost, of those goods and services customarily marketed by approved types of businesses.

The bill would extend this provision to an applicant or licensee located in a township in which the applicant or licensee was the only person that owned or operated motor fuel pumps within the township on the date of application. The Commission could not revoke a license granted under this provision if a second person that owned or operated fuel pumps opened within the township after the original application was filed.

Secondary Location Permit

Under the bill, if a specially designated merchant's licensed premises were a primary location, the Commission could issue a secondary location permit to the SDM, as an extension of its license, for the sale of beer, wine, or both, at the secondary location. The Commission could issue a secondary location permit to an SDM only if the holder of the SDM license for the primary location premises or a subsidiary or affiliate of the license holder owned or leased the secondary location and owned or operated motor vehicle fuel pumps at the secondary location.

"Secondary location" would mean a business operation of the holder of an SDM license for a primary location, or a subsidiary or affiliate of that licensee, that takes place on real property, that includes at least one building and one or more motor vehicle fuel pumps, and that is located on or adjacent to the primary location. Upon Commission approval of a secondary license permit, the secondary location would be considered licensed premises and an extension of the licensed primary location.

An applicant for a secondary location permit would have to submit an application and an initial permit fee of \$100 to the Commission. The application would have to include a diagram of the secondary location with building dimensions and a depiction of the distance measurement between the site of liquor selection and payment and the point where fuel was dispensed. A secondary location permit would expire on the same date as the SDM license and could be renewed in conjunction with the license. The permit holder could renew the permit by submitting a permit renewal fee of \$100 and a completed renewal application.

After an SDM was issued a secondary location permit, if the SDM's primary location were not a neighborhood shopping center, for purposes of determining the required minimum inventory condition, the primary location and the secondary location would be considered one premises.

After a secondary location permit was issued, if a subsidiary or affiliate of the SDM owned or operated the secondary location and shared the same ultimate controlling party of the SDM, the secondary location could receive and sell beer, wine, or both, under the SDM's license.

The holder of a secondary location permit would be required to display the permit prominently at the secondary location in the point-of-sale area.

MCL 436.1541

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Michigan Liquor Control Commission (MLCC) within the Department of Licensing and Regulatory Affairs and a positive, but likely minor, fiscal impact on local units of government. The bill would allow for more specially designated merchant licenses to be issued. These licensees pay a fee of \$100 per year. Under current law, any additional license fee revenue generated under the bill would be credited as follows: 55% to local law enforcement, 3.5% to alcoholism program, and 41.5% to the MLCC for licensing and enforcement.

Liquor license fees in general do not generate sufficient revenue to cover the MLCC's licensing and enforcement costs; license fee revenue shortfalls have historically been covered by appropriations from the Liquor Purchase Revolving Fund, which derives revenue from the 65% MLCC markup on the sale of spirits. In the case of the license applications that would be allowed under the bill, it is unknown whether the marginal cost to process those additional licenses would be greater or less than the revenue that would be generated, so the fiscal impact of the bill is indeterminate.

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.