

## REFUND/REPLACEMENT OF BEER & WINE

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**Senate Bill 357 as passed by the Senate**  
**Sponsor: Sen. Rebekah Warren**  
**House Committee: Regulatory Reform**  
**Senate Committee: Regulatory Reform**

Analysis available at  
<http://www.legislature.mi.gov>

**Complete to 9-5-17**

### SUMMARY:

The bill would allow micro brewers which sell directly to licensed retailers, and wholesalers, to provide refunds or product replacements to retailers for beer and wine under certain conditions.

Specifically, Senate Bill 357 would add a new section to the Michigan Liquor Control Code to allow a manufacturer that sells direct to a retailer under Section 203(19) or a wholesaler to refund to a retailer the amount the retailer paid for beer or wine, as applicable, or would allow the manufacturer or wholesaler to replace that beer or wine for any of the following reasons:

- The beer or wine is outdated or defective.
- The beer or wine delivered is in error.
- The beer or wine may no longer be lawfully sold.
- The retailer's business has been terminated.
- The formula, proof, label, or container of the beer or wine is changed.
- The beer or wine is discontinued.
- The retailer is only open a portion of the year, and the beer or wine is likely to spoil during the off-season.

[Section 203(19) allows a qualified micro brewer, or a substantially equivalent out-of-state entity, to sell and deliver beer to a retailer in Michigan if certain conditions are met. "Retailer" is defined in the code to mean a person licensed by the commission who sells to the consumer in accordance with rules promulgated by the commission. The term includes a brewpub but does not include a manufacturer or supplier, as defined in section 603, that is allowed as a condition of its license to sell to consumers in this state.]

Further, if beer is within 30 days of its out-of-date code, the manufacturer (micro brewer) or the wholesaler could refund the amount the retailer paid for the beer. A refund or replacement under the bill could only be issued for beer or wine that the manufacturer or wholesaler sold to the retailer.

The bill would take effect 90 days after enactment.

**BACKGROUND INFORMATION:**

Under departmental rules, the Michigan Liquor Control Commission (LCC) has authority to authorize, by written order, certain product adjustments for beer and wine. Administrative Order 2016-05 allows product adjustments made by wholesalers and manufacturers to be by refund in the amount a licensed retailer paid for the product or by a product replacement of like product on a one-for-one basis, for certain listed reasons. Under the administrative order, beer products nearing their out-of-date codes may also be exchanged by beer wholesalers with like products on a one-for-one basis; however, wholesalers are currently prohibited from making product adjustments in the form of cash or credit refunds on beer products nearing out-of-date codes. Essentially, Senate Bill 357 would make changes to Administrative Order 2016-05 and then would codify the order.

**FISCAL IMPACT:**

The bill would have no fiscal implications for state or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.