

## ESTABLISH PENALTIES FOR UNLAWFUL IMPORT, SALE, OR DELIVERY OF BEER OR WINE

Phone: (517) 373-8080  
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**House Bills 4556 & 4557 as introduced**  
**Sponsor: Rep. Joseph N. Bellino Jr.**  
**Committee: Regulatory Reform**  
**Complete to 5-9-17**

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

### SUMMARY:

The bills create a new civil sanction and criminal penalties for the unlawful sale, delivery, or importation of beer or wine whether by a licensee or a person not licensed by the Michigan Liquor Control Commission, and places a new felony penalty within the sentencing guidelines. Both bills would take effect 90 days after enactment.

Under the Michigan Liquor Control Code, only the Michigan Liquor Control Commission (MLCC) and certain persons licensed or authorized by the commission are allowed to sell, deliver, or import alcoholic beverages into the state. Generally speaking, a violation of the provision is a misdemeanor offense, with a licensee subject to imprisonment for up to six months and/or a fine of not more than \$500. A person who is not licensed under the Code could receive up to 90 days in jail and/or a fine of not more than \$500 for a violation.

House Bill 4557 amends the Michigan Liquor Code (MCL 436.1909) to specify that a person, whether or not a licensee, would be subject to the following penalties or sanctions for selling, delivering, or importing beer or wine in violation of Section 203(1):

- ❖ A violation involving at least 225,000 milliliters would be a felony punishable by imprisonment for not more than four years and/or a fine of not more than \$5,000. (225,000ml equals three hundred 750 ml containers of wine or, at a conversion rate of 0.033814, about twenty-six cases of 12 ounce containers of beer)
- ❖ A violation involving at least 45,000 milliliters but less than 225,000 milliliters would be a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$2,500. (45,000 ml equals sixty 750 ml containers of wine or about five cases of 12 ounce containers of beer.)
- ❖ A violation involving less than 45,000 milliliters would be a state civil infraction; the person could be ordered to pay a civil fine of not more than \$500.

(Section 203(1) prohibits, except as otherwise provided in the section and Section 301, a person from selling, delivering, or importing alcohol—including alcohol for personal use—unless the sale, delivery, or importation is made by the commission, the commission's authorized agent or distributor, an authorized distribution agent approved by order of the commission, a person licensed by the commission, or by prior written order of the commission. Section 301 authorizes the commission to levy and collect taxes on wine sold in the state.)

Section 203 also requires persons wishing to bring any type of alcoholic beverages in to the state for personal consumption to obtain prior written approval of the commission; an online

application can be found on the MLCC's website. However, a person of legal age who has been outside the U.S. for at least 48 hours and who has not brought alcoholic beverages into the state during the past 30 days may bring in up to one liter without prior approval. A person of legal age may also bring in up to 312 ounces of alcoholic liquor that contains less than 21 percent alcohol by volume (about 24 twelve-ounce containers of beer or a dozen 750 ml containers of wine) from another state without prior approval by the commission.)

House Bill 4556 amends the Code of Criminal Procedure (MCL 777.14f). The bill specifies that the unauthorized sale, delivery, or importation of beer or wine would be a Class F felony against the public order with a maximum term of imprisonment of four years. The bill is tie-barred to House Bill 4557.

## **FISCAL IMPACT:**

### Department of Licensing and Regulatory Affairs/MLCC

House Bills 4556 and 4557 would not have significant fiscal impacts on the revenues or expenditures of the Department of Licensing and Regulatory Affairs (LARA). The bills would establish misdemeanors and felonies for persons that illegally sell, deliver, or import beer and wine into this state.

### Department of Corrections

House Bill 4557 would have an indeterminate fiscal impact on the state and on local units of government. Information is not available on the number of persons that might be convicted under provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction.

Civil infraction penalties would increase revenues going to the state Justice System Fund, which supports various justice-related endeavors in the judicial branch, and the Departments of State Police, Corrections, and Health and Human Services. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues. Also, the bill would have an indeterminate fiscal impact on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bill affected court caseloads and related administrative costs. House Bill 4556 amends sentencing guidelines and therefore does not have a direct fiscal impact on the state or on local units of government.

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Marcus Coffin  
Robin Risko

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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.