

# Legislative Analysis



## TEMPORARY BIN DISPLAYS FOR BEER, WINE, & SPIRITS

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**House Bill 4558 (reported from committee w/o amendment)**

**Sponsor: Rep. Jeremy Moss**

**Committee: Regulatory Reform**

**Complete to 5-24-17**

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

*(Public Act 83 of 2017)*

**BRIEF SUMMARY:** The bill would place in statute provisions currently contained in departmental rules regarding a temporary bin display on the premises of a retailer with an SDM or SDD license for off-premises sales of beer, wine, or spirits; would increase the capacity of the bin; and limit the number of days that a temporary bin could be displayed to 120 days.

**FISCAL IMPACT:** House Bill 4558 would not have a significant fiscal impact on state or local units of government.

### **THE APPARENT PROBLEM:**

Currently, under departmental rules promulgated under provisions of the Michigan Liquor Control Code, a manufacturer, vendor of spirits, outstate seller of beer, or outstate seller of wine may furnish and install a temporary bin display that has a capacity of up to 15 cases (24 containers to a case) of 12-ounce or 0.375-liter containers or the equivalent in other sizes of beer, wine, or spirits on the premises of a retailer licensed for off-premises sales. The rules also allow a wholesaler to install a bin on the premises of an SDM or SDD licensee that was provided without charge by the manufacturer, outstate seller of beer, or outstate seller of wine. Permanent bins may not be sold, furnished, or installed by a manufacturer, vendor of spirits, outstate seller of beer, outstate seller of wine, or wholesaler in a retailer's licensed premises, and a licensed retailer may not accept a permanent display from any of these entities.

Legislation has been offered that would place these rules in statute and also increase the allowable amount of product that could be used in a display.

### **THE CONTENT OF THE BILL:**

House Bill 4558 would add a new section to the Michigan Liquor Control Code to place into statute the provisions described above, and other provisions currently contained in the Michigan Administrative Code regarding the placement of temporary bins in licensed off-premises establishments to hold containers of beer, wine, and spirits. However, the bill would increase the capacity of the bin from holding up to 15 cases to holding up to 25 cases of 12-ounce or 0.0375-liter containers or the equivalent in other sizes.

The bill also would codify (place in statute) the following rules (with some minor rephrasing):

- ❖ The requirement that a retailer ensure that a temporary bin display installed on the premises clearly indicates the date on which the temporary bin display was installed by a tag, stamp, label, or other method securely affixed to the display.
- ❖ The exemption stating that the 3,500-square-inch limit on an inside retail advertising sign under Section 609 does not apply to advertising on a temporary bin display.

The bill defines "temporary bin display" to mean a freestanding device constructed of a material that is used for the exhibition of beer, wine, or spirits on the premises of a retailer licensed for off-premises sales only and that must be removed from the retail licensed premises not later than 120 days after installation.

The bill would take effect 90 days after enactment.

MCL 436.1610b, proposed

### ***ARGUMENTS:***

#### ***For:***

The bill will codify (put into statute) the current practice regarding temporary displays of alcoholic products in off-premises establishments. Permanent displays are prohibited as they can unfairly give larger brewers an unfair advantage in using the bins as a way to get more shelf space. Codifying accepted practices maintains continuity as administrations change through the years, yet allows for amendments to meet changing needs or attitudes of the state's residents. Though rules can also be revised, the process is more complex and time consuming. The bill also increases the amount of product that can be used in a display. This allows vendors and manufacturers the flexibility to create more artistic or interesting displays, such as forming a university's or professional sport's team logo or initials during football season.

#### ***Response:***

Some feel the bill should be clarified to retain the current practice by some vendors of providing table tops or bar tops with advertising for spirits and that the language should be clarified to include equal measures of spirits to the increase for beer and wine products.

### ***POSITIONS:***

A representative of the Michigan Beer & Wine Wholesalers Association testified in support of the bill. (5-17-17)

The following entities indicated support for the bill on 5-17-17:

Wine Institute  
Miller Brewing Company  
Great Lakes Wine & Spirits

AFPD (Associated Food & Petroleum Dealers)  
Anheuser Busch

Michigan Liquor Control Commission does not have a position on the bill. (5-17-17)

Michigan Spirits Association submitted written testimony voicing areas of concern.  
(5-17-17)

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