

Legislative Analysis



BEER, WINE, SPIRIT SAMPLING OR TASTING

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4559 (as amended on Second Reading)

Sponsor: Rep. Tom Barrett

Committee: Regulatory Reform

Complete to 5-24-17

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

(Public Act 88 of 2017)

BRIEF SUMMARY: The bill would allow a licensed wholesaler or manufacturer of alcoholic liquor to give samples of beer or wine to an employee of the wholesaler under certain conditions, and would clarify the situations under which a tasting or sampling would not violate the Michigan Liquor Control Code's prohibition on a vendor giving away any alcoholic liquor in connection with the vendor's business.

FISCAL IMPACT: House Bill 4559 would not have a significant fiscal impact on state or local units of government.

THE APPARENT PROBLEM:

Wholesalers licensed under the Michigan Liquor Control Code, who deliver wine and beer to licensed retailers in the state, can find it difficult to answer questions or properly represent products they deliver to retailers without firsthand knowledge of those products. Though the Code allows for some tastings of alcoholic beverages, it does not currently allow manufacturers or wholesalers to provide tastings of beer or wine for an educational purpose to a wholesaler's employees.

THE CONTENT OF THE BILL:

House Bill 4559 would amend Section 1025 of the Michigan Liquor Code to allow either a wholesaler or a manufacturer to give samples of beer or wine to an employee of the wholesaler if all of the following conditions were met:

- ❖ The purpose is to educate the employee regarding the beer or wine.
- ❖ The employee is at least 21 years of age.
- ❖ The sampling takes place on the wholesaler's licensed premises.

In addition, the Code currently bans vendors from giving away any alcoholic liquor of any kind or description at any time in connection with the vendor's business, except that a manufacturer may do so for consumption on the premises only. However, the prohibition does not prevent certain entities or a bona fide market research organization retained by one of the specified entities from conducting samplings or tastings of a product before approval for sale in the state if written approval had been obtained from the Michigan Liquor Control Commission. Further, Section 1025 also authorizes several other situations in which entities are not prevented from offering a sampling or tasting. The bill would add the following to this list:

- ❖ Any sampling or tasting authorized by rule of the Commission.
- ❖ A tasting authorized under Section 415 of the Code conducted by the holder of a farmers market permit.
- ❖ A sampling authorized under Section 1027(2) of the Code conducted by a retailer licensed for consumption on the premises.
- ❖ A sampling at a consumer sampling event authorized under Section 1027(4) and (5).

MCL 436.2025

ARGUMENTS:

For:

The bill would allow a manufacturer or a wholesaler to provide samples of beer and wine to a wholesaler's employees as long as the employee is at least 21, the purpose is to educate the employee, and the sampling takes place at work (the licensed premises). Employees who are knowledgeable about the products the wholesaler delivers could more effectively answer questions about those products posed by clients. For example, a retailer may want to know how one product compares in taste to another.

Further, the bill clarifies which entities listed in Section 1025 may offer a sampling or tasting by including references to several other provisions of the Code authorizing such samplings or tastings.

Against:

No arguments in opposition to the bill were offered.

POSITIONS:

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

AFPD (Associated Food and Petroleum Dealers)
Great Lakes Wine & Spirits
Michigan Beer & Wine Wholesalers
Wine Institute
Miller Brewing Company
Anheuser Busch

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

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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.