

WHOLESALE REVISIONS

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House Bill 5768 (reported from committee as substitute H-3)

Sponsor: Rep. Brandt Iden

Committee: Regulatory Reform

Complete to 5-1-18

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

(Enacted as Public Act 178 of 2018)

SUMMARY:

Generally speaking, the sale, delivery, and importation into the state of beer, wine, and mixed spirit drink are strictly regulated by the Michigan Liquor Control Code. Licensees, except for warehousemen, are divided among three tiers: suppliers, wholesalers, and retailers. A person or entity may only be licensed in one of the three tiers.

House Bill 5768 would add a new section to the Code to specify certain prohibitions and conditions for the sale, delivery, and importation of beer, wine, and mixed spirit drink by a vendor in one of the three tiers to a vendor in another tier.

Briefly, the bill would do the following:

- Prohibit, with some exceptions, a person from selling, delivering, or importing beer, wine, or mixed spirit drink unless he or she is:
 - A supplier (manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits).
 - A licensed direct shipper (e.g., sells directly to the consumer via mail order or internet wine produced and bottled by the direct shipper or wine manufactured by one wine maker for another).
 - A wholesaler.
- Allow a supplier, direct shipper, or wholesaler to sell, deliver, or import wine, beer, or mixed spirit drink in the state only as prescribed in the bill.

The above provisions would not apply to a retailer, to an individual who brings, transports, ships, or imports alcohol into the state for personal use as permitted by federal law, or to sacramental wines imported under Section 301.

For beer, wine, or mixed spirit drink delivered to a wholesaler, the bill would:

- Require the wholesaler to maintain the products on its licensed premises.
- Require the wholesaler to make those products available for inspection by the Michigan Liquor Control Commission (LCC) for at least 24 hours before the wholesaler delivers the beer, wine, or mixed spirit drink to a retailer.

The above provisions would not apply to products delivered to a wholesaler, and the wholesaler could deliver beer, wine, or mixed spirit drink to a retailer, *if certain conditions listed in the bill applied*; for example, if the wholesaler could not fulfill the retailer's order for the beer, wine, or mixed spirit drink from the inventory currently available on the wholesaler's licensed premises, the product had been delivered to the address of the wholesaler's licensed premises, and the wholesaler maintained the invoice of the delivery and attached documentation to the invoice detailing each product and the amount of each product that was not placed on the

wholesaler's floor. Further, the provisions added by the bill would not prohibit a brewer, micro brewer, wine maker, small wine maker, or retailer from selling alcohol as provided in the Code.

Proposed MCL 436.1204

BRIEF DISCUSSION:

House Bill 5768 primarily codifies departmental rules requiring the delivery of beer, wine, and mixed spirit drinks to come from a manufacturer to a wholesaler before delivery to an on- or off-premises licensee. As current law is silent as to how long the products must remain "on the floor" of the wholesaler before delivery to stores and restaurants, the bill would establish a minimum time period of 24 hours during which the products would have to be available to the Liquor Control Commission for inspection.

The bill would also create a limited number of conditions under which the wholesaler could deliver the beer, wine, or mixed spirits before the 24-hour period expired. For example, occasions do arise necessitating a wholesaler to order additional stock to fill an order on short notice. The wholesaler may then need to deliver the product immediately to the licensee or, if time is very short, pick up the product directly from a brewer, winery, or another wholesaler and deliver it to the licensee without having the product sit on the floor at all. Such scenarios could include a festival or event drawing larger crowds than anticipated and running short on products, or the wrong product being delivered to a licensee close to an event.

Whether beer, wine, and mixed spirit drink deliveries are held by the wholesaler on the wholesaler's licensed premises for all or part of the 24-hour period, or delivered by the wholesaler directly from a manufacturer or other wholesaler to the licensee, required paperwork must be retained for Commission inspections so that all product ordered and delivered by a wholesaler can be properly accounted for.

FISCAL IMPACT:

The bill would not have a significant fiscal impact on the state or local units of government.

POSITIONS:

A representative of the Michigan Beer and Wine Wholesalers Association testified in support of the bill. (4-11-17)

The Wine Institute indicated support for the bill. (4-25-18)

The Michigan Brewers Guild indicated support for the bill. (4-25-18)

The Michigan Liquor Control Commission has no position on the bill. (4-25-18)

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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.