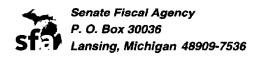
**PUBLIC ACT 426 of 2018** 





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Senate Bill 1181 (as enacted)

Sponsor: Senator Peter MacGregor Senate Committee: Regulatory Reform House Committee: Regulatory Reform

Date Completed: 2-15-19

### CONTENT

The bill amended the Michigan Liquor Control Code to do the following:

- -- Prohibit cooperate advertising between certain entities involved in the manufacture and sale of alcoholic liquor, but allow certain other types of advertising.
- -- Allow a retailer to offer consumers instant rebate coupons for use with alcoholic liquor purchases.

The bill took effect on December 20, 2018.

# Cooperative Advertising

Under the bill, cooperative advertising is prohibited:

- -- Between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a retailer.
- -- Between a wholesaler and a retailer.
- -- Between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a wholesaler.

"Cooperative advertising" means a jointly funded effort between licensees, or between vendors of spirits.

("Manufacturer" means a person engaged in the manufacture of alcoholic liquor, including a distiller, a rectifier, a wine maker, and a brewer. "Outstate seller of beer" means a person licensed by the Michigan Liquor Control Commission (MLCC) to sell beer that has not manufactured in Michigan to a wholesaler in the State in accordance with rules promulgated by the MLCC. "Outstate seller of wine" means a person licensed by the MLCC to sell wine that has not been manufactured in Michigan to a wholesaler in the State in accordance with rules promulgated by the MLCC and to sell sacramental wine. "Wholesaler" means a person who is licensed by the MLCC and sells beer, wine, or mixed spirit drink only to retailers or other licensees, and who sells sacramental wine.)

A manufacturer, an outstate seller of beer, or an outstate seller of wine may do any of the following:

- -- Pay any portion of the cost of painting a wholesaler's truck.
- -- Supply a brand logoed decal or advertising mat, or both, to a wholesaler without cost.

Page 1 of 2 sb1181/1718 -- Use the name or logo of the wholesaler of the outstate seller of beer or outstate seller of wine in the outstate seller's advertising.

The name of a retailer may not appear in the advertising of a manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler.

## Instant Rebate Coupon

A retailer may offer consumers instant rebate coupons for use with alcoholic liquor purchases. An instant rebate coupon must comply with the following:

- -- A retailer may issue only coupons that state a specific expiration date and specific cash refund value on the coupons.
- -- A retailer may issue coupons that can be applied to more than one specific product from a manufacturer, but must state the manufacturer to which they apply.
- -- For spirits, a retailer must issue coupons only for 375 milliliters or larger size bottles.
- -- A supplier or wholesaler of beer or wine may not pay for or participate in the offering of an instant rebate coupons.

A retailer may not issue coupons that make any alcoholic liquor free. For spirits, the retailer must issue coupons only where the specific cash refund amount does not exceed 35% of the State's minimum shelf price for the products purchased and does not reduce the retail price of any product below \$2 a bottle.

A retailer must issue coupons that require the retail customer to purchase at least one product of alcoholic liquor to redeem a coupon. A retailer may issue coupons that require the retail customer to purchase two or more alcoholic liquor products from the same manufacturer to redeem the coupon.

MCL 436.1610d

#### **BACKGROUND**

Generally, cooperative advertising is a cost-sharing advertising arrangement between two parties. A horizontal cooperative advertising agreement is an arrangement in which two or more types of retailers or franchisees who sell complementary products or sales cycles promote and/or sell each other's products with their own. A vertical cooperative advertising agreement is a contract between a manufacturer and a member of distribution chain (e.g., a wholesaler) to share the costs of advertising a product.

Legislative Analyst: Stephen Jackson

#### **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Abbey Frazier

#### SAS\S1718\s1181es

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.