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BILL



ANALYSIS

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House Bill 4556 (as passed by the House)
House Bill 4557 (Substitute H-1 as passed by the House)
Sponsor: Representative Joseph N. Bellino, Jr.
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 6-7-17

CONTENT

House Bill 4557 (H-1) would amend the Michigan Liquor Control Code to prescribe criminal and civil penalties for a person, whether or not a licensee, who sold, delivered, or imported beer or wine without authority under the Code.

House Bill 4556 would amend the Code of Criminal Procedure to add the felony proposed by House Bill 4557 (H-1) to the sentencing guidelines as a Class F offense against the public order, with a maximum term of four years.

House Bill 4556 is tie-barred to House Bill 4557. Each bill would take effect 90 days after its enactment.

House Bill 4557 (H-1) is described in detail below.

The Michigan Liquor Control Code prescribes criminal and civil penalties for various violations of the Code, including penalties for the sale, delivery, or importation of spirits by an unauthorized person, whether a licensee or not. An offense involving at least 80,000 milliliters of spirits is a felony punishable by imprisonment for up to four years and/or a maximum fine of \$5,000. An offense involving at least 8,000 but less than 80,000 milliliters is a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$2,500. A violation involving less than 8,000 milliliters is a State civil infraction and the person responsible may be fined up to \$1,000.

Under the bill, a person, whether or not a licensee, who sold, delivered, or imported beer or wine in violation of Section 203(1) of the Code would be subject to the following penalties or sanctions:

- If the amount of beer or wine were at least 225,000 milliliters, the violation would be a felony punishable by imprisonment for up to four years or a maximum fine of \$5,000, or both.
- If the amount of beer or wine were at least 45,000 milliliters but less than 225,000 milliliters, the violation would be a misdemeanor punishable by imprisonment for up to 93 days or a maximum fine of \$2,500, or both.
- If the amount of beer or wine were less than 45,000 milliliters, the violation would be a State civil infraction, and the person responsible could be ordered to pay a civil fine of up to \$500.

(Section 203(1), except as otherwise provided, prohibits a person from selling, delivering, or importing alcoholic liquor, including alcoholic liquor for personal use, in the State unless the sale, delivery, or importation is made by the Michigan Liquor Control Commission, the Commission's authorized agent or distributor, an authorized distribution agent approved by order of the Commission, or a person licensed by the Commission, or by prior written order of the Commission.)

As used in the bill, "person" would not include an air carrier, a freight forwarder, or a motor carrier as those terms are defined under Federal law.

MCL 777.14f (H.B. 4456)
436.1909 (H.B. 4557)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

House Bill 4557 (H-1)

The bill could have a negative fiscal impact on State and local government. More misdemeanor and felony arrests and convictions, and civil infraction adjudications and dispositions, could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. Any associated increase in criminal and State civil infraction fine revenue would increase funding to public libraries.

House Bill 4556

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law). According to one interpretation of that decision, the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Ryan Bergan

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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.