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BILL



ANALYSIS

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House Bill 4667 (Substitute S-1)  
Sponsor: Representative Brandt Iden  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform

Date Completed: 4-25-18

### **CONTENT**

**The bill would amend Section 303 of the Michigan Liquor Control Code to codify and expand provisions of Executive Reorganization Order 2014-2 regarding the Grape and Wine Industry Council. Specifically, the bill would do the following:**

- **Rename the Grape and Wine Industry Council as the Michigan Craft Beverage Council.**
- **Decrease the membership of the Council and revise the term limits of its members.**
- **Require the Council to direct the Department of Agriculture and Rural Development (MDARD) to award grants for research into fruits used in winemaking and wines, hops, barley, beer, and spirits.**
- **Require the Council to direct MDARD to award grants for certain projects, including those that provide information on the proper methods of handling and selling fruits used in winemaking and wines, hops, barley, beer, spirits, and mixed spirits; those that provide for the promotion of Michigan agricultural products used in the production of alcoholic beverages; and those that develop and administer financial aid programs to growers of fruits used in winemaking, and hops and barley growers.**
- **Require the Council to apply for and accept grants and contributions from public and private entities.**
- **Allow the Council to accept money from any source for the purpose of carrying out the Council's responsibilities, and require the money to be forwarded to the State Treasurer for deposit.**
- **Require the Council to prepare an annual budget.**
- **Prohibit the Council from engaging in lobbying.**

**The bill states that Section 303 would not prevent the Council from establishing a commodity committee under the Agriculture Commodities Marketing Act.**

The bill would take effect on October 1, 2018. The bill is tie-barred to Senate Bill 440, which would amend the Code to require money deposited by the Michigan Liquor Control Commission with the State Treasurer to be credited to the Michigan Craft Beverage Council, in addition to the Revolving Fund and the General Fund.

## Council Name & Composition

Executive Reorganization Order 2014-2 abolished the former Grape and Wine Industry Council and created a new Council with the same title. House Bill 4667 (S-1) would rename the Council as the Michigan Craft Beverage Council and amend language in the Code to reflect that change.

Under the Executive Order, the Council consists of the following members:

- Three wine makers, appointed by the Governor.
- A wine grape grower, appointed by the Governor.
- The chief executive officer of the Michigan Economic Development Corporation (MEDC), or his or her designee.
- The Director of the Michigan Department of Agriculture and Rural Development, or his or her designee, who serves as chairperson of the Council.
- A staff member of Michigan State University appointed by, and serving at the pleasure of, the dean of the College of Agriculture and Natural Resources.
- The chairperson of the Michigan Liquor Control Commission (MLCC), or his or her designee, as an ex officio member.
- A person who operates a retail food establishment that holds a specially designated merchant license and sells Michigan wines, or a person who operates a restaurant that holds a class C license and serves Michigan wines, appointed by the Governor.
- A beer and wine wholesaler who markets Michigan wine, appointed by the Governor.
- Two members of the public, appointed by the Governor.

Under the bill, the MDARD Director or his or her designee would be a nonvoting member of the Council. In addition, the Council would consist of the following voting members, who would be appointed by the Governor:

- A representative of retail food establishments that hold a specially designated merchant license and sell Michigan wines or beer.
- A representative of restaurants that hold a class C license and serve Michigan wines, beer, or spirits.
- Two representatives of wine makers.
- A representative of wine makers that primarily manufacture cider.
- A representative of large brewers.
- Either a representative of micro brewers or a representative of brewpub license holders.
- A representative of small distillers.
- A representative of distillers that manufacture more than 60,000 gallons of spirits per year.

The bill would define "large brewer" as a brewer that produces in total at least 60,000, but not more than 1.0 million barrels of beer per year. In determining the barrel threshold, all brands and labels of a brewer, whether brewed in or outside the State, would have to be combined and all facilities for the production of beer that were owned or controlled by the same person would be treated as a single facility.

"Cider" would mean an alcoholic beverage made from the fermentation of juice from primarily apples or pears, or both, which contains at least one-half of 1% and not more than 8.5% of alcohol by volume. Cider could be still or carbonated and could contain other fruits, spices, botanicals, or other flavors.

(A class C license authorizes the retail sale of beer, wine, mixed spirit drink, and spirits for on-premises consumption. A specially designated merchant license authorizes the retail sale of beer or wine, or both, for off-premises consumption. An authorized distribution agent is a

person authorized by the MLCC to store spirits owned by a supplier or the MLCC, deliver spirits sold by the Commission to retail licenses, or perform functions needed for those activities.)

The following would apply to a member of the Council:

- The member's principal place of business would have to be located in Michigan.
- The member could not be a lobbyist or a lobbyist agent, as those terms are defined in the lobbyist registration law.

#### Council Term Limits

Under Executive Order 2014-2, four members were to serve from May 10, 2014, until February 1, 2016, and three members served from May 10, 2014, until February 1, 2017.

All terms beginning after January 1, 2016, are for three years. A member may not serve for more than two consecutive terms, but must continue to serve until a qualified successor has been appointed. A vacancy on the Council must be filled in the same manner as the original appointment.

Under the bill, voting members of the Council appointed by the Governor would serve for terms of three years or until a successor was appointed, whichever was later, except that of the voting members first appointed, three would serve for one year, three would serve for two years, and three would serve for three years. The term limits and manner in which vacancies would have to be filled would remain the same.

#### Council Requirements

Under the Executive Order, the Council is given certain responsibilities as outlined in the Code. The Council is required to do the following:

- Provide for research on wine grapes and wines, including methods of planting, growing, controlling insects and diseases, charting microclimates and locations for growing desirable varieties of wine grapes, marketing, processing, distribution, advertising, sales production, and product development.
- Provide the wine industry, including growers, wineries, distributors, and retailers, with information relative to proper methods of handling and selling wine grapes and wines.
- Provide for market surveys and analyses for the purposes of expanding existing markets and creating new and larger markets for wine grapes and wines.
- Provide for the promotion of the sale of Michigan wine grapes and wines for the purpose of maintaining or expanding present markets and creating new and larger domestic and foreign markets.
- Develop and administer financial aid programs to wine grape growers to encourage the increased planting in Michigan of desirable grape varieties in microclimates determined to provide the best conditions for producing quality wines.

The bill, instead, would require the Council, subject to an appropriation, to direct MDARD to award grants; require the Council to apply for grants; and specify other responsibilities of the Council, as described below.

First, subject to an appropriation, the Council would have to direct MDARD to award grants for the research into both of the following:

- Fruits used in winemaking and wines, including methods of planting, growing, controlling insects and diseases, charting microclimates and locations for growing desirable varieties

of fruits used in winemaking, marketing, processing, distribution, advertising, sales production, and product development.

- Hops, barley, beer, and spirits, including methods of planting, growing, controlling insects and diseases, marketing, processing, distribution, advertising, sales production, and product development.

Also, subject to an appropriation, the Council would have to direct MDARD to award grants for projects that would do one of more of the following:

- Provide the wine industry, including growers, wineries, distributors, and retailers, with information relative to proper methods of handling and selling fruits used in winemaking and wines.
- Provide the brewing and distilling industries, including growers, brewers, distillers, distributors, and retailers, with information relative to proper methods of handling and selling hops, barley, beer, spirits, and mixed spirits.
- Provide for market surveys and analyses for purposes of expanding existing markets and creating new and larger markets for Michigan agricultural products such as fruits, hops, and barley that are used in the production of wine, cider, beer, spirits, and mixed spirit drinks.
- Provide for the promotion of Michigan agricultural products such as fruits, hops, and barley that are used in the production of wine, cider, beer, spirits, and mixed spirit drinks for the purpose of maintaining or expanding present markets and creating new and larger domestic and foreign markets.
- Develop and administer financial aid programs to growers of fruits used in winemaking to encourage the increased planting in Michigan of desirable fruit varieties in microclimates determined to provide the best conditions for producing quality wines.
- Develop and administer financial aid programs to hops and barley growers to encourage increased planting in Michigan of desirable hops and barley varieties, respectively, in microclimates determined to provide the best conditions for producing quality beer.
- Establish educational partnerships to benefit the beer, wine, cider, spirits, and mixed spirit drink industries.

Additionally, the Council would have to do the following:

- Apply for and accept grants or contributions from the Federal government or any of its agencies, the State, or other public or private agencies to be used for any purposes of Section 303 and to do any and all things within the Council's express or implied powers necessary or desirable to secure that financial or other aid or cooperation in the carrying out of any of the purposes of the section.
- Invite the chief executive officer (CEO) of the MEDC or his or her designee to attend at least one Council meeting annually to inform the Council about partnership activities and opportunities related to the marketing and promotion of Michigan agricultural products such as fruits, hops, and barley that are used in the production of wine, cider, beer, spirits, and mixed spirit drinks.
- Invite the LARA Director to attend at least one meeting annually to inform the Council about funding activities affecting the Council.
- Prepare and approve an annual budget.

Based on the information provided to the Council by the CEO of the MEDC and the LARA Director, the Council could do either of the following: 1) take actions that would enhance the marketing and promotion of Michigan agricultural products such as fruits, hops, and barley that are used in the production of wine, cider, beer, spirits, and mixed spirit drinks; or 2) annually review and adopt strategies for marketing and promotion of Michigan agricultural

products such as fruits, hops, and barley that are used in the production of wine, cider, beer, spirits, and mixed spirit drinks.

The Department would have to administer the grants awarded.

#### Council Expenses & Record-Keeping

The Code permits the Council to employ personnel and incur expenses that are necessary to carry out the purposes of the Council under the Code. The expenses must be paid from fees credited to the Council from license and license renewal fees, other than retail and wholesale vendor licenses and renewals.

The bill would delete the requirement that expenses be paid from fees credited to the Council from license and license renewal fees.

The Code also requires the Council to maintain accurate books and records, and requires all money received by the Council to be used to implement and enforce the Council's responsibilities. Under the bill, the Council also could accept money from any source for the purpose of carrying out its responsibilities. All money received by the Council would have to be forwarded to the State Treasurer for deposit into the Michigan Craft Beverage Council Fund.

#### Lobbying

Under the bill, the Council could not engage in lobbying, as that term is defined under the lobbyist registration law. However, the bill would not prohibit the Council or a Council member or employee from providing technical information, as that term is defined in the lobbyist registration law, to the Legislature or MDARD, regardless of whether the Council, member, or employee was appearing before an officially convened legislative committee or Department hearing panel, if the technical information were related to the Council's duties under Section 303.

(The lobbyist registration law defines "lobbying" as communicating directly with an official of the State executive or legislative branch for the purpose of influencing legislative or administrative action. Lobbying does not include the provision of technical information by a person other than a lobbyist agent or an employee of a lobbyist agent when appearing before an officially convened legislative committee or executive department hearing panel. "Technical information" means empirically verifiable data provided by a person recognized as an expert in the subject area to which the information provided is related.)

MCL 436.1303

Legislative Analyst: Stephen Jackson

#### **FISCAL IMPACT**

The bill would have minimal fiscal impact on the Michigan Department of Agriculture and Rural Development. The Michigan Craft Beverage Council would be tasked with undertaking additional activities and responsibilities. The bill also would require that the Council approve an annual budget, and apply for grants and monetary contributions.

Current funding for the Council consists of restricted revenue from liquor license fees, excluding retail, renewal and wholesale vendor license fees. Appropriations to the Council total \$927,000 for FY 2017-18. This funding consists of \$877,900 from nonretail liquor fees,

\$45,400 from private industry funding, and \$3,700 from the General Fund. The additional activities assigned to the Council would be funded from current resources if additional funding were not acquired.

Fiscal Analyst: Elizabeth Raczkowski

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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.