



ANALYSIS

Telephone: (517) 373-5383

Fax: (517) 373-1986

House Bill 5768 (Substitute H-3 as passed by the House)

Sponsor: Representative Brandt Iden House Committee: Regulatory Reform Senate Committee: Regulatory Reform

Date Completed: 5-16-18

CONTENT

The bill would add Section 204 to the Michigan Liquor Control Code to do the following:

- -- Require a person to be a supplier, licensed direct shipper, or wholesaler in order to bring, transport, ship, or import alcoholic liquor into Michigan.
- -- Make exceptions to that requirement for a retailer, an individual importing alcohol for personal use, and the importation of sacramental wine.
- -- Permit a licensed direct shipper to sell to a consumer as provided in the Code.
- -- Permit a wholesaler, an outstate seller of beer, wine, or mixed spirit drink, or a brewer, wine maker, or manufacturer to deliver or import beer, wine, or mixed spirit drink only in certain ways, which generally involve delivery to the licensed premises of the wholesaler.
- -- Require a wholesaler to maintain beer, wine, and mixed spirit drink that was delivered on its licensed premises and make the beer, wine, and mixed spirit drink available for inspection for at least 24 hours before delivery to the retailer, subject to certain exceptions.

Additionally, the bill specifies that Section 204 would not prohibit a brewer, microbrewer, wine maker, small wine maker, or retailer from selling alcoholic liquor or nonalcoholic beverages as provided in the Code.

Supplier, Direct Seller, Wholesaler

The Code generally permits the transport of alcoholic liquor and sacramental wine, and grants the Michigan Liquor Control Commission (MLCC) the right, power, and duty to control alcoholic beverage traffic and traffic in other alcoholic liquor in Michigan.

Under the bill, except for an individual who brings, transports, ships, or imports alcoholic liquor into Michigan under Section 203(8) or (9) (i.e., for personal use), for a retailer, or for imported sacramental wines, a person could not sell, deliver, or import beer, wine, or mixed spirit drink in Michigan unless the person were one of the following:

-- A supplier (a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, wine, or mixed spirit drink, a vendor of spirits, or a person licensed by the MLCC to perform substantially similar functions).

Page 1 of 3 hb5768/1718

- -- A licensed direct shipper (a wine maker or a wine producer and bottler located in the country but outside the State that holds a Federal basic permit issued by the Alcohol and Tobacco Tax and Trade Bureau and a license to manufacture wine in its state of domicile).
- -- A wholesaler.

The person could sell, deliver, or import beer, wine, or mixed spirit drink only in one of the ways described below.

Method of Delivery, Sale, Importation

<u>Licensed Direct Shipper</u>. A licensed direct shipper could sell to a consumer under Section 203. (That section generally permits a licensed direct shipper to sell, deliver, or import wine to a Michigan consumer by means of any mail order, internet, telephone, computer, device, or other electronic means, or sell directly to a consumer on the winery premises, if the direct shipper complies with certain requirements.)

<u>Wholesaler</u>. A wholesaler that picks up the beer, wine, or mixed spirit drink from the premises of an outstate seller of beer, wine, or mixed spirit could deliver the beer, wine, or mixed spirit drink to the licensed premises of the wholesaler designated to sell and deliver the beer, wine, or mixed spirit drink to the individual licensed location of the retailer in the wholesaler's sales territory.

<u>Outstate Seller</u>. An outstate seller of beer, wine, or mixed spirit drink could deliver the beer, wine, or mixed spirit drink to the licensed premises of a wholesaler designated to sell and deliver the beer, wine, or mixed spirit drink to the individual licensed location of the retailer in the wholesaler's sales territory.

An outstate seller also could deliver the beer, wine, or mixed spirit drink to its licensed premises in the State, but the beer, wine, or mixed spirit drink would have to be delivered to the licensed premises of the wholesaler designated to sell and deliver the beer, wine, or mixed spirit drink to the individual licensed location of the retailer in the wholesaler's sales territory.

<u>Brewer; Wine Maker; Manufacturer</u>. Except as otherwise provided in the Code, a brewer, wine maker, or mixed spirit drink manufacturer could deliver beer, wine, or mixed spirit drink to the licensed premises of the wholesaler designated to sell and deliver the beer, wine, or mixed spirit drink to the individual licensed location of the retailer in the wholesaler's sale territory.

A brewer, wine maker, or mixed spirit drink manufacturer that has a manufacturing plant located outside of the State could deliver the beer, wine, or mixed spirit drink manufactured in the plant to its licensed premises in the State. However, the beer, wine, or mixed drink would have to be delivered to the licensed premises of the wholesaler designated to sell and deliver the beer, wine, or mixed spirit drink to the individual licensed location of the retailer in the wholesaler's sales territory.

Wholesaler Maintenance & Inspection

Except as provided below, a wholesaler would have to do both of the following in regard to beer, wine, or mixed spirit drink that was delivered to the wholesaler:

- -- Maintain the beer, wine, or mixed spirit drink on the wholesaler's licensed premises.
- -- Make the beer, wine, or mixed spirit drink maintained on the wholesaler's licensed premises available for inspection by the MLCC for at least 24 hours before the wholesaler delivered the beer, wine, or mixed spirit drink to a retailer.

Page 2 of 3 hb5768/1718

For beer, wine, or mixed spirit drink that had been delivered to a wholesaler, the maintenance and inspection requirements would not apply and the wholesaler could deliver beer, wine, or mixed spirit drink to a retailer if all of the following applied:

First, either 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; or the wholesaler intended to deliver the beer, wine, or mixed spirit drink to a special licensee, including a special license issued for a beer festival, before the 24-hour period (described above) had expired.

Second, either the beer, wine, or mixed spirit drink had been delivered to the wholesaler's licensed premises; or the wholesaler picked up the beer, wine, or mixed spirit drink from the licensed premises of any of the following:

- -- A brewer.
- -- A wine maker.
- -- A mixed spirit manufacturer.
- -- An outstate seller of beer, wine, or mixed spirit drink.
- -- A wholesaler.

Third, the wholesaler maintained the delivery invoice and attached a documentation to the invoice that detailed each product and the amount of each product that was not placed on the wholesaler's floor.

Proposed MCL 436.1204 Legislative Analyst: Stephen Jackson

FISCAL IMPACT

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

Fiscal Analyst: Elizabeth Raczkowski

SAS\S1718\s5768sa

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.