

Legislative Analysis



INSPECTION AND SEIZURE OF CERTAIN ALCOHOLIC DRINKS

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<http://www.house.mi.gov/hfa>

House Bill 4959 as introduced
Sponsor: Rep. Roger Hauck
Committee: Regulatory Reform
Complete to 9-16-19

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

SUMMARY:

House Bill 4959 would replace the current section 601 of the Michigan Liquor Control Code (which requires a one-year residency requirement of wholesalers and applicants for a wholesale license) with a section allowing the Liquor Control Commission to inspect and seize beer, wine, mixed spirit drink, and mixed wine drink ("certain alcohol").

The bill states that, in order for the Commission to ensure the safety of certain alcohol for sale in Michigan, it must be able to inspect and seize those beverages. The purpose of that inspection would be to ensure that the alcohol meets all of the following conditions:

- It has been registered for sale with the Commission.
- It is not subject to a recall.
- It is not counterfeit.
- It is within the code date set by the manufacturer.
- It is properly labeled.
- It can be tested by the Commission or an agent assigned by the Commission.
- It is stored and handled in the manner recommended or required by the manufacturer.
- It is not prohibited in Michigan.

Under the bill, the Commission could seize or destroy certain alcohol that did not meet these provisions.

In order to facilitate these inspections, and the random inspection of records required by the Code and the Administrative Code, a wholesaler or applicant for a wholesale license would have to have a warehouse located in Michigan and licensed by the commission for the storage, sale, and distribution of certain alcohol before operating as a wholesaler in Michigan.

The importation, sale, transportation, and delivery of all beer, wine, mixed spirit drink, and mixed wine drink offered by sale by a wholesaler would have to comply with section 204 of the code, which provides for the importation of liquor into Michigan. (That section does not currently mention mixed wine drink.)

MCL 436.1601

BACKGROUND:

In June of 2019, the U.S. Supreme Court struck down a two-year durational-residency requirement for retail liquor store licenses in Tennessee as a violation of the Commerce Clause.¹ While section 2 of the 21st Amendment gives each state some leeway, the Court found, the residency requirement unfairly favored residents and was an undue restriction on interstate commerce.

Accordingly, the bill would remove the one-year residency requirement in Michigan and replace it with a requirement that wholesalers and applicants for wholesale licenses have an appropriately licensed warehouse located in Michigan.

FISCAL IMPACT:

House Bill 4959 would not have an appreciable direct fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) or on other units of state or local government.

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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.

¹ *Tennessee Wine and Spirits Retailers Assn v Thomas*, 588 US ____ (2019).