

Legislative Analysis



INSPECTION AND SEIZURE OF CERTAIN ALCOHOLIC DRINKS

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

House Bill 4959 (H-1) as referred to second committee

Sponsor: Rep. Roger Hauck

1st Committee: Regulatory Reform

2nd Committee: Ways and Means

Complete to 10-8-19

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 contains a one-year residency requirement for 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 government-mandated or supplier-initiated recall.
- It is not counterfeit.
- It is properly labeled.
- It can be tested by the Commission or an agent assigned by the Commission.
- 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 Liquor Control 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. However, for purposes of this section, the wholesaler would not have to hold a warehouse license for the wholesaler's licensed premises.

The importation, sale, transportation, and delivery of all beer, wine, mixed spirit drink, and mixed wine drink offered for sale by a wholesaler would have to comply with section 204 of the code, which provides for the importation of liquor into Michigan. [Note: 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.

BRIEF DISCUSSION:

Proponents stated that the bill would require wholesalers to store products in state, which would allow continued regulation and protection of the health and safety of Michiganders. Removal of the residency requirement would keep the statute in compliance with federal law, as the U.S. Supreme Court found a similar residency requirement in Tennessee unconstitutional.

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.

POSITIONS:

A representative of the Michigan Beer and Wine Wholesalers Association testified in support of the bill. (9-17-19)

Meijer indicated support for the bill. (10-3-19)

The following organizations indicated a neutral position on the bill:

Michigan Liquor Control Commission (10-3-19)

Michigan Brewers Guild (9-17-19)

The Wine Institute indicated opposition to the bill. (9-17-19)

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Fiscal Analyst: Marcus Coffin

■ 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).