

Legislative Analysis



EXPANDED HOURS FOR ON-PREMISES ALCOHOL SALES

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House Bill 4115 as reported from committee

Sponsor: Rep. Ryan Berman

Committee: Regulatory Reform

Complete to 3-16-21

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

BRIEF SUMMARY: House Bill 4115 would amend the Michigan Liquor Control Code to allow the legislative body of a city, village, or township to adopt a resolution to allow on-premises liquor licensees to sell alcoholic liquor between 2 a.m. and 4 a.m.

FISCAL IMPACT: House Bill 4115 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) and a minimal impact on local units of government. The bill would allow the Michigan Liquor Control Commission (MLCC), within LARA, to levy a \$250 initial and annual renewal fee for permits issued under the act. The amount of revenue raised by these fees would depend on the volume of permits issued. The bill would be unlikely to result in any appreciable costs for local units, and the impact on costs incurred by the MLCC is presently indeterminate and would depend on the volume of applications received.

THE APPARENT PROBLEM:

Restaurants and bars have been particularly hit hard during the ongoing COVID-19 pandemic by restrictions on in-person dining and curfews that limit the hours an establishment can be open. Legislation has been proposed to allow local communities to decide if they want to allow alcohol sales by on-premises establishments for an additional two hours (2 a.m. to 4 a.m.) to give bars and restaurants a boost as pandemic restrictions begin to be lifted.

THE CONTENT OF THE BILL:

The Liquor Control Code now generally prohibits both on-premises and off-premises licensees from selling or providing alcoholic liquor between 2 a.m. and 7 a.m.

Under the bill, the legislative body of a city, village, or township could approve a resolution allowing the sale of alcohol for consumption on the premises between 2 a.m. and 4 a.m.

The bill would allow the MLCC to issue a late night permit for the sale of alcohol for consumption on the premises between 2 a.m. and 4 a.m. to a licensee that holds a license or permit to sell alcohol for consumption on the premises and that is located in a city, village, or township that approved such sales by resolution. The licensee could apply for a late night permit on a form prescribed by the commission. An initial and annual renewal fee for a late night permit would be \$250. A late night permit would expire on the same date as the on-premises license or permit and could be renewed in conjunction with that license or permit.

MCL 436.2114 and proposed MCL 436.2116

BACKGROUND:

House Bill 4115 is a reintroduction of HB 4213 of the 2019-20 legislative session. That bill was passed by the House of Representatives and reported from the Senate Regulatory Reform Committee with a substitute bill that added a three-year sunset (expiration date).

ARGUMENTS:

For:

The bill would enable local governments to allow, by resolution, on-premises licensees (bars and restaurants) to sell alcohol until 4 a.m. According to the bill sponsor, the legislation would provide a tool for local governments to help businesses offset sales lost due to the COVID-19 pandemic by bringing in extra business. Increased revenue to businesses would increase tax revenue to the state. In addition, not everyone is on the same work schedule, and many shift workers may enjoy being able to stop for a drink on the way home from work or gather with friends at a bar or restaurant. Allowing late night sales may also attract conferences to an area. Many large cities in other states have late night sales, and some states allow for 4 a.m. sales statewide. The bill appears to apply to the new social districts, which would mean those on-premises licensees who have a permit to sell alcohol for consumption off their licensed premises in a common area in a social district could sell alcohol until 4 a.m.

The bill does not require the MLCC to issue a late-night permit to any establishment that applies for one. Therefore, it would appear that applications would be reviewed on a case-by-case basis, as is the policy for initial and renewal applications for on-premises liquor licenses.

Against:

A number of concerns have been raised regarding the health, safety, and economic implications of expanding the time period that on-premises licensees can serve alcohol, including the following:

- According to the National Highway Traffic Safety Administration (NHTSA), about 55% of fatal crashes involving alcohol-impaired drivers occur between midnight and 3 a.m. Expanding the hours during which alcohol can be served in bars and restaurants would likely shift the timing of DUI-related crashes to match the change in closing time and be anticipated to increase related injuries by as much as 11%. Shifting the closing time for on-premises establishments could also correspond to when early shift workers are commuting to work. Some opponents have expressed a concern that early morning commuters could be at greater risk of being hit on their way to work by a drunk driver returning from a late night at a bar or restaurant.
- A bar or restaurant in a community that opts in to late night alcohol sales may become a “magnet,” especially if surrounding communities do not opt in, resulting in consumers driving greater distances and through multiple jurisdictions to late-night establishments and putting people at risk as they drive longer distances home.
- Law enforcement officials have raised concerns regarding the potential for more fights or assaults due to increased alcohol consumption.
- Addiction experts have expressed concerns that the timing of the bill corresponds to higher rates of depression brought on by the pandemic and a continuing opioid crisis (about 25% of overdose deaths involve alcohol) and that enacting the bill, which would increase access to alcohol, would be bad public policy at this time.

- It should be noted that similar bills offered in previous legislative sessions generally restricted late night permits to specific times (e.g., Friday and Saturday nights) or places (e.g., downtown or resort areas). In addition, the permit fee in HB 4115 is much lower than the fees proposed in the past for late night permits, which have generally been higher (\$1,500 in one bill), to help with any related law enforcement or infrastructure costs.
- Previous bills have typically included a sunset (expiration) date to allow further study of the effects of late night liquor sales before making the policy permanent. A sunset could also be appropriate if the bill is primarily intended as a temporary measure to help bars and restaurants recover economic losses due to the pandemic.
- Some communities, such as college towns, have high foot traffic to restaurants and bars. Residents have previously opposed similar proposals due to being often awakened in the early morning by loud, drunk students stumbling home. They expressed concerns that 4 a.m. closing times could increase noise problems in residential areas and disrupt sleep for a longer period of time, which would have negative impacts on the health and productivity of those who need to get up early for work and school.

POSITIONS:

The following entities indicated support for the bill (2-23-21):

- City of Detroit
- Michigan Licensed Beverage Association

The following entities indicated a neutral position on the bill:

- Michigan Restaurant and Lodging Association (3-2-21)
- Michigan Brewers Guild (2-23-21)

Representatives of the following entities testified in opposition to the bill:

- Mid-Michigan District Health Department (2-23-21)
- Michigan Alcohol Policy Promoting Health and Safety (3-2-21)
- Unite to Face Addiction (3-2-21)
- Michigan Council on Alcohol Problems (3-2-21)
- Center for Urban Youth and Family Development (2-23-21)

The following entities indicated opposition to the bill:

- Michigan Liquor Control Commission (2-23-21)
- Michigan Sheriffs' Association (3-2-21)
- Michigan Association of Chiefs of Police (2-23-21)
- Allied Liquor Stores of Michigan (3-2-21)
- Michigan Association of Recovery Residences (3-2-21)

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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.