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House Bill 4710 (H-1) as reported
Sponsor: Rep. Steven Johnson
Committee: Regulatory Reform
Complete to 5-12-22

BRIEF SUMMARY: House Bill 4710 would amend the Michigan Liquor Control Code to require the fee for the initial or transfer license of various liquor licenses to be prorated on a quarterly basis for a portion of the effective period of the license.

FISCAL IMPACT: The bill would have a significant fiscal impact on state and local units, mainly by reducing revenues by an indeterminate amount. Revenues that the bill would impact are distributed to local governments, the Michigan Liquor Control Commission, alcoholism programming, and the Craft Beverage Council in the Michigan Department of Agriculture and Rural Development.

THE APPARENT PROBLEM:

The Michigan Liquor Control Commission (MLCC) issues numerous types of liquor licenses for those who manufacture, deliver, or sell beer, wine, or spirits. A license in each class of licensees (e.g., manufacturers, wholesalers, or retailers such as bars and restaurants) must be renewed annually by April 30 of each year. However, if a person or business is applying for a new liquor license, or if a current licensee needs to transfer the existing license to a new location or to a new owner, the same fee must be paid whether the application is approved at the beginning of a new license cycle or towards the end. That is, an individual or business who applies for a new or a transfer license in October or February pays the same license fee as one who submits the application in early April. Since liquor establishments are bought and sold throughout the year, the timing of when an application for an initial or a transfer license should be filed is not predictable. Once time to process and issue an application is added in, the remaining time frame in which the licensee can do business under the new license before the April 30 deadline to apply for the next license cycle is further shortened.

Currently, the Michigan Liquor Control Code prohibits initial and transfer liquor licenses from being prorated. Some feel that this law should be changed to instead be based on the number of months the new license would be valid.

THE CONTENT OF THE BILL:

House Bill 4710 would amend the Michigan Liquor Control Code to require the fee for the initial or transfer license of various liquor licenses to be prorated on a quarterly basis for a portion of the effective period of the license.

Under the act, liquor licenses in each class are valid for one year, from May 1 to April 30 of the following year, which means that every liquor license must be renewed by April 30 of each year. An applicant for a new or renewal license, or an applicant who wishes to transfer a license to a new location or to a new owner, must submit the applicable license fee at the time of application for the license (whether original, renewal, or transfer). If approved, MLCC issues an order to the applicant that the license is approved along with instructions for completing the approval process, if needed. For example, a final inspection may be needed before the license can be issued. According to MLCC, once the approval is finalized, a licensee can pick up the license (or have it mailed) or delay the license's effective date. For instance, some applicants for a new or transfer license may choose to have the license be effective in early May if the final approval is close to the April 30 renewal deadline. If the license or transfer request is denied, the fee is not refunded.

In addition, the act specifically prohibits fees for the various types of licenses from being prorated for the effective period of the license. Thus, an applicant who submits a full license fee and receives an initial license close to the April 30 renewal deadline must still renew the license by that April 30.

The bill would instead require the fees to be prorated on a quarterly basis.

MCL 436.1525 and 436.1529

BACKGROUND:

House Bill 4710 is similar to HB 4507 of the 2017-18 legislative session as that bill was reported from the House Regulatory Reform committee. HB 4507 differed from HB 4710 in providing that the license fee not be paid until *after* approval and upon issuance of the license.

ARGUMENTS:

For:

Starting a new liquor business can be expensive. Whether building from scratch, remodeling an existing structure, or buying a liquor establishment that is already in business, there are many costs to consider. Obtaining the appropriate state liquor license is just one of those costs. All existing liquor establishments, regardless of the type (bar or restaurant, corner package store, microbrewery, distiller, winery, beer and wine wholesaler, etc.) are required to renew their liquor licenses by April 30 of each year. However, someone who buys an existing liquor business, moves the business to a new location, or starts a new liquor business is required to pay the same license fee regardless of how close to that April 30 date the new license is issued. This means that a business who gets a new or transfer liquor license in February must pay the full annual license fee, and then pay it again by April 30 for the following year. To some, this seems akin to paying full price for something but receiving only a portion. To help offset the cost to new business owners, or those transferring their business to a new location mid-license cycle, HB 4710 would remove the current ban on prorating new and transfer liquor license fees and instead require the fee to be prorated on a quarterly basis. Some jurisdictions around the nation already allow for some form of proration based on when during a license cycle an application is filed or approved and issued.

Against:

According to the Michigan Liquor Control Commission, House Bill 4710 is problematic for the following reasons:

- License fees are submitted with an application, meaning that the bill would require *refunds* to be remitted to applicants whose application is approved based on the quarter in which the license was issued. The problem with this approach is that the MLCC or the state does not retain control over the license fee revenue. By statute, it is required to be distributed to other entities in varying percentages, including local governmental units, the MLCC for operational expenses, substance abuse programs, and the Craft Beverage Council in the Department of Agriculture and Rural Development. The bill would require those entities to return any money they received that represented a refund the MLCC had to return to an applicant, even if the entity had already spent that money.
- Compared to many costs of starting or running a liquor business, the actual license fee is a small part. Some are as low as $10 per year. On-premises licenses are $600 a year, and off-premises retail licenses are even lower at $100 per year for a store selling beer and wine and $150 plus $3 per $1,000 of liquor purchased from the MLCC over $25,000 for those also selling spirits. (In addition, the license fee is likely to be tax-deductible as a business expense.) However, the costs associated with conducting the required investigation and processing for each application are the same, regardless of when in the licensing cycle that application is received. Thus, depending on which quarter an application is submitted or approved, the bill would represent a loss of revenue for the department and, depending on how many were submitted late in a licensing cycle, the cost to process an application could significantly exceed the fee remitted with the application.
- Three license types (salesperson, broker, and vendor representative) are on a three-year cycle. The bill would require the MLCC to prorate these licenses over 12 quarters. As these licenses are $35 for a salesperson license and $50 for each of the other two, the cost for staff to prorate such low fees could cost more than the actual amount prorated and returned to the applicant.

Against:

Because there is no uniform time to process many of the liquor licenses (some require consent by local governments, and additional time can be needed if information is missing on the application form), it would be difficult for any of the parties to predict a possible fee under the bill. This could affect the department's ability to plan for needed staffing on a consistent level.

Some states and large cities have adopted a cutoff date and provide that initial or transfer license applications submitted before that date must pay the full license application fee and those submitted after that date may pay a reduced flat fee. This system avoids the added expense of figuring out a refund based on the quarter an application was finalized and the license issued and collecting money from entities to which it had already been distributed and potentially spent.

Against:

As described above, an applicant for a new or transfer license already has an option to delay the effective date of the new license until after May 1 if final approval of the license is close to that date. In addition, the license fee is a small part of doing business and likely a tax-deductible business expense.

However, as the license process is dictated by statute and departmental rules, excess costs incurred under the bill's provisions would be borne by the department. A loss of revenue to the MLCC could also translate into reduced staffing, which in turn could mean longer times to process licenses, delayed hearings, and reduced enforcement capabilities.

Local governments would also see reduced funding under the bill, which could impact enforcement of liquor code provisions such as underage drinking or sales to visibly intoxicated persons, among others, by local law enforcement agencies. Substance abuse programs would see a reduction in funding at a time when the state has seen a rise in the number of people seeking treatment for alcohol abuse as well as an increase in alcohol-related liver disease according to media reports. The Craft Beverage Council, which, among other things, helps to grow the state's craft beverage industry through coordinating promotion efforts, research, and agricultural business development, would also see a reduction in funding as businesses try to recover from the economic impact of the pandemic.

POSITIONS:

The Michigan Licensed Beverage Association indicated support for the bill. (11-2-21)

The Michigan Liquor Control Commission indicated opposition to the bill. (11-2-21)

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