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BILL ANALYSIS

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Senate Bill 68 (as passed by the Senate)
Sponsor: Senator Dayna Polehanki
Committee: Regulatory Affairs

Date Completed: 3-27-25

RATIONALE

Recently, co-branded products have become popular in the wine and spirits industry. Co-branded products refer to any alcoholic beverage that has the same or similar brand name, logo, or packaging as a nonalcoholic beverage, such as "spiked" versions of drinks. According to testimony before the Senate Committee on Regulatory Affairs, there have been incidents of retailers selling co-branded products in the same general area as their similarly-branded non-alcoholic products, which has caused confusion for consumers and retailers. Accordingly, it has been suggested that retailers be required to display alcoholic and non-alcoholic products separately to protect consumers from potential misunderstanding.

CONTENT

The bill would prohibit an off-premises retailer with a retail sales floor that exceeded 2,500 square feet from displaying co-branded alcoholic beverages that abutted or otherwise had a common border with soft drinks, fruit juices, bottled water, candy, toys, or snack foods if the snack foods portrayed cartoons or youth-oriented images. "Co-branded alcoholic beverage" would mean any alcoholic liquor that had the same or similar brand name, logo, or packaging as a nonalcoholic beverage.

The bill also would prohibit an off-premises retailer with a retail sales floor that was 2,500 square feet or less from displaying co-branded alcoholic beverages that abutted or otherwise had a common border with soft drinks, fruit juices, bottled water, candy, toys, or snack foods if the snack foods portrayed cartoons or youth-oriented images unless the retailer posted signage on any display meeting those criteria. The signage would have to be clearly visible to consumers, be at least 8.5 by 11 inches, and state the following:

"THIS PRODUCT IS AN ALCOHOLIC BEVERAGE AVAILABLE ONLY TO PERSONS WHO ARE 21 YEARS OF AGE OR OLDER."

The Liquor Control Commission could order fines for a violation of the requirements of the bill. The fines would have to be deposited into the Liquor Control Enforcement and License Investigation Revolving Fund.

Proposed MCL 436.1609k

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is similar to Senate Bill 730 of the 2023-2024 Legislative Session. Senate Bill 730 passed the Senate and was reported by the House Committee on Regulatory Reform but received no further action.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to testimony before the Senate Committee on Regulatory Affairs, other states have seen an increase in retail establishments' marketing and placement activities that encourage children to purchase alcoholic beverages. Reportedly, these practices include placing co-branded products next to their non-alcoholic counterparts and placing co-branded products near children's toys. Similar legislation to the bill has passed in other states, including Illinois, banning these practices. Subconsciously encouraging children to purchase alcoholic beverages should be prohibited, and so the bill should pass to make such co-branding practices illegal in Michigan.

Opposing Argument

According to testimony before the Senate Committee on Regulatory Affairs, placing alcohol in numerous places around a store is a practice many stores use to increase sales of alcoholic beverages. For a store larger than 2,500 square feet, the bill's restrictions on the placement of co-branded products could make difficult the practice of placing co-branded products in multiple locations around a store. This could reduce a store's profits from the sale of alcoholic beverages, and so the bill should not be passed.

FISCAL IMPACT

The bill would have an indeterminate positive fiscal impact on State government and no fiscal impact on local units of government. The impact would depend on the number of violations of the bill. Fines paid for violations of the bill would be deposited into the Liquor Control Enforcement and License Investigation Revolving Fund, which is expended for enforcement of the Code.

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