

# Legislative Analysis



## **LIQUOR CONTROL CODE: SPIRITS AND SPECIAL LICENSES**

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

**House Bill 6541 as reported from committee**  
**House Bill 6543 (H-2) as reported from committee**  
**Sponsor: Rep. Brandt Iden**

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

**House Bill 6542 as reported from committee**  
**Sponsor: Rep. Curtis S. VanderWall**

**Committee: Regulatory Reform**  
**Complete to 12-7-18**

### **SUMMARY:**

As a package, the bills would allow a specially designated distributor (SDD) to sell discounted spirits to a special licensee; allow a vendor of spirits to provide a special licensee with a brand-logoed tent, platform, or trailer for use during the special event; and create a special license for a qualified organization to conduct a spirits tasting.

Under the Michigan Liquor Control Code, nonprofit organizations may apply for up to 12 special licenses a year. The license, which is valid for one day, allows the charitable organization to sell beer, wine, mixed spirit drink, or spirits at retail for consumption on the premises only. In addition, a special license can be obtained that allows an organization to auction wine that has been donated to it and another that allows a nonprofit organization comprising brewers, microbrewers, and/or brewpubs to obtain up to six beer festival special licenses in a calendar year.

**House Bill 6541** would add a new section to the Michigan Liquor Control Code to allow an SDD licensee who sells spirits to a special licensee authorized to sell spirits to offer those spirits at a discount. The discount would have to be from the 17% that is deducted from the sale price established by the Liquor Control Commission on the sale of alcohol made by the state liquor stores to SDDs and on-premises licensees (e.g., restaurants and bars).

The bill would also allow the SDD to refund the special licensee for an unopened bottle in the same amount that the special licensee paid for those spirits, but only if the bottle had no damage to the exterior that would prevent it from being resold. A restocking fee of up to 10% of the amount the special licensee paid for the spirits could be charged by the SDD. The restocking fee would be considered income for the SDD for handling expenses.

Proposed MCL 436.1609d

**House Bill 6542** would add a new section to the Liquor Control Code to allow a vendor of spirits to provide a special licensee with a brand logoed tent, brand logoed *temporary platform*, and/or a brand logoed trailer for use during the effective period of the special license. *Temporary platform* would mean a preestablished platform exclusively used to serve, dispense, or mix drinks upon, including any refrigeration equipment or mixing equipment. [Currently, Section 609 of the Code prohibits a vendor from aiding or assisting another vendor by gift, loan of money or property, or any other valuable thing, or by premiums or rebates.]

Proposed MCL 436.1609e

**House Bill 6543** would add a new section to the Liquor Control Code to create a special license for a *qualified organization* conducting a *spirits tasting*.

*Spirits tasting* would mean an event at which spirits are showcased to the general public and at which the general public could purchase and sample the spirits being showcased for consumption on the licensed premises.

*Qualified organization* would mean a nonprofit association whose membership includes at least 15 primary members and consists of at least three of the following that are licensed by the commission:

- Vendors of spirits
- Small distillers
- Brokers, as that term is defined in Section 609 of the Code
- Authorized delivery agents

An application for a spirits tasting special license would have to be submitted by a qualified organization, with a fee of \$25 per day of the event, and the spirits tasting being applied for would have to involve an event with the primary purpose of showcasing spirits and the spirits' production or mixability.

The holder of a spirits tasting special license could purchase spirits as provided under departmental rules, which allow a special licensee to purchase spirits from a licensed specially designated distributor (SDD) at the uniform sales price set by the commission and mixed spirits drink from an SDD or from a licensed wholesaler.

If the holder of the special license did not receive a discount from an SDD on the price of spirits purchased for the event under the provisions of HB 6541, that person could receive a rebate on the purchase as specified in the bill. A special licensee would submit a combined request for a rebate by March 1 of each year for all of the events for which it held a special license in the previous calendar year. The Commission would have to issue to the special licensee the combined rebate by June of each year.

The special license holder could not have more than six such events per year. The license holder and the member vendors of spirits, small distillers, authorized distribution agents,

and brokers whose vendor representatives, salespersons, or agents are licensed by the Liquor Control Commission, could pour and serve spirits, with or without mixers.

Proposed MCL 436.2028

### **BRIEF DISCUSSION:**

Taken together, the bills would provide spirits vendors parity with beer and wine vendors. Under the bills, eligible organizations could receive a special license to hold an event similar to beer or wine festivals, could receive and display logoed tents and platforms for use at the event, buy spirits for the event at a discounted price and return unopened bottles for a refund, and conduct spirits tastings. All of these are available to special licensees hosting a beer and wine festival.

Industry members point to the growing popularity of products made by craft distillers. Just as beer and wine festivals can highlight Michigan breweries and wineries, making Michigan a destination for aficionados, so could festivals featuring Michigan's craft distillers. The bills would enable small distillers to grow their market share, and benefit all vendors of spirits, while supporting Michigan's economy and tourist industry similarly to what is currently in place for craft beer and wine producers.

### **FISCAL IMPACT:**

House Bill 6541 would not have a significant fiscal impact on any unit of state or local government. The bill would allow specially designated distributors to offer special licensees a discount on the purchase of spirits. However, the discount offered to special licensees would come from the 17% discount already allowed for specially designated distributors under section 233 of the Michigan Liquor Control Code.

House Bill 6543 would have an indeterminate fiscal impact on the Liquor Control Commission (LCC) within the Department of Licensing and Regulatory Affairs. The bill would allow for the issuance of special licenses to qualified organizations conducting spirits tastings, and would require the remittance of a fee of \$25 per day of the event by the qualified organization. Revenue from these fees would depend on the number of licenses sought by qualified organizations. The bill would also allow special licensees that did not receive a discount from a specially designated distributor when they purchased spirits to apply to the LCC for a rebate. The rebate would be determined by a formula established in the bill, and would equal the purchase price of the spirits less the price the LCC paid for the spirits, 15% of that amount, and applicable taxes. Based on the narrow definition of "qualified organization," the impact of the bill would likely be modest.

House Bill 6542 would not have a fiscal impact on any unit of state or local government.

## POSITIONS:

A representative of the Michigan Craft Distillers Association testified in support of House Bill 6543. (12-4-18)

The following entities indicated support for the bills (12-4-18):

- Michigan Beer and Wine Wholesalers Association
- Michigan Spirits Association
- Michigan Festivals and Events Association
- Michigan Licensed Beverage Association

The Michigan Liquor Control Commission has no position on the bills. (12-4-18)

The Midwest Independent Retailers Association indicated opposition to House Bill 6541. (12-4-18)

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