

LIMITED PRODUCTION MANUFACTURER LICENSE

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Senate Bill 711 as enacted
Public Act 80 of 2020

Analysis available at
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Sponsor: Sen. Jon Bumstead
1st House Committee: Regulatory Reform
2nd House Committee: Ways and Means [Discharged to the Floor]
Senate Committee: Regulatory Reform
Complete to 4-2-20

SUMMARY:

Senate Bill 711 amends the Liquor Control Code to create a new liquor license category that allows for the limited production of beer, allows the licensee to purchase beer from a different brewer or micro brewer and modify that beer, and allows the licensee to sell the beer to a wholesaler or person outside of Michigan, and to revise the definition of “outstate seller of beer.”

Specifically, the bill authorizes the Liquor Control Commission (LCC) to issue a *limited production manufacturer* license to a person that purchases beer from another brewer, micro brewer, or out-of-state equivalent of a brewer or micro brewer for the purpose of taking ownership of the beer and performing any of the manufacturing process as described in section 109(1) of the code.¹ The initial and renewal fee for a license is \$1,000.

Limited production manufacturer license

The bill allows a brewer, micro brewer, or out-of-state equivalent of a brewer or micro brewer (“out-of-state entity”) to sell beer to a limited production manufacturer and allows a limited production manufacturer to buy beer from a brewer, micro brewer, or out-of-state entity if all of the following conditions are met:

- The brewer, microbrewer, or out-of-state entity relinquishes ownership of the beer to the purchasing limited production manufacturer.
- The limited production manufacturer modifies the beer by performing all or part of the manufacturing process.
- The brewer, micro brewer, or out-of-state entity notifies the LCC in writing, in the form required by the LCC, of the sale and amount of beer being sold to a limited production manufacturer before each sale.
- The brewer, micro brewer, or out-of-state entity and the limited production manufacturer maintain records of the sale, as required by the LCC, for three years.

¹ Under section 109(1), "manufacture" means to distill, rectify, ferment, brew, make, produce, filter, mix, concoct, process, or blend an alcoholic liquor or complete a portion of one or more of these activities. It does not include bottling or the mixing or other preparation of drinks for serving by those authorized under the code to serve alcoholic liquor for consumption on the licensed premises. It also does not include attaching a label to a shiner.

A limited production manufacturer can only sell beer to a wholesaler or to a person located outside of Michigan regardless of whether the person is licensed under the code. Notwithstanding certain specified provisions of the code and departmental rules, a person holding an outstate seller of beer license that purchased beer from a limited production manufacturer may sell that beer to a Michigan wholesaler.

The following prohibitions and requirements apply to limited production manufacturers:

- A limited production manufacturer cannot be licensed as or hold a financial interest in another licensed supplier except for purposes of purchasing beer in the manner allowed under the bill.
- A limited production manufacturer cannot hold a license in the wholesale tier or retailer tier as provided in section 603(13) of the code. [With some exceptions, the provision prohibits a retailer from holding, directly or indirectly, a license in the wholesaler or supplier tier, a wholesaler from holding a license in the retailer or supplier tier, and a supplier from holding a license in the wholesaler or retailer tier. The code defines “supplier” as a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits or a person licensed by the LCC to perform substantially similar functions, but not including a master distributor.]
- A limited production manufacturer must comply with all provisions of the code that apply to a brewer, including sections 401, 403, 603, and 609.
- A limited production manufacturer cannot self-distribute.
- A limited production manufacturer must register the beer and receive a registration number of approval under departmental rules before selling beer in Michigan to a wholesaler.
- A limited production manufacturer must hold a federal brewer’s notice issued by the U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau in accordance with federal law.

Outstate seller of beer

As defined in the code, “outstate seller of beer” means a person licensed by the LCC to sell beer that has not been manufactured in Michigan to a wholesaler in this state in accordance with rules promulgated by the LCC. The bill adds to this definition “beer that the person purchased from a limited production manufacturer.”

The bill takes effect April 2, 2020.

MCL 436.1109 and 436.1504

BRIEF DISCUSSION:

Senate Bill 711 allows beer to be transferred from one brewery to another for further processing. According to committee testimony, the bill addresses the circumstances of La Colombe, a coffee roaster and retailer that has a manufacturing facility near Muskegon. In 2019, La Colombe partnered with Miller-Coors to develop a hard cold brew coffee—that is, a ready-to-drink coffee that has an alcohol content, in this case from being blended with

beer. The manufacture process requires La Colombe to transport beer in bulk from another brewery to its facilities, where it is blended with the coffee product to make the finished beverage. However, the Liquor Control Code did not expressly allow such a transfer or further processing of beer. The LCC granted La Colombe a one-time exception, which expires April 30, 2020. The bill creates a legal framework and license category that not only allow La Colombe's production of hard cold brew coffee to continue, but would also apply to any similar products or collaborations that might in the future require beer from one manufacturer to be further processed by another.

FISCAL IMPACT:

Senate Bill 711 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs and on the Michigan Department of Agriculture and Rural Development. The bill would allow the LCC to issue a limited production manufacturer license with an initial and renewal license fee of \$1,000. Any revenues resulting from these fees would be deposited to the Michigan Craft Beverage Council Fund. Revenues from these fees are indeterminate and would depend on the volume of licenses issued.

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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.