



Senate Bill 349 (as reported without amendment)
Sponsor: Senator Curtis S. VanderWall
Committee: Regulatory Reform

CONTENT

The bill would amend the Michigan Liquor Control Code to do the following:

- Beginning February 1, 2020, allow a small distiller or an out-of-State entity that was the substantial equivalent of a small distiller to file an application with the Department of Agriculture and Rural Development (MDARD) to be certified as a qualified small distiller, i.e., a distiller that produced at least 40% of its distilled base distillate from distilled grain grown and harvested in Michigan.
- Specify that for each bottle of spirits produced by a qualified small distiller, the price for each bottle would have to return a profit to the Michigan Liquor Control Commission (MLCC) of 32.5%, beginning January 1, 2021.
- Require MDARD to submit to the Commission an annual report that included the name of each qualified distiller.
- Prescribe penalties, including a misdemeanor penalty, for a small distiller or an out-of-State entity that was the substantial equivalent of a small distiller that provided false information to the Commission.
- Require a qualified small distiller to keep certain records and accounts of all transactions pertaining to the operation of its distillery.

MCL 436.1233

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an overall negative fiscal impact on the Michigan Liquor Control Commission within the Department of Licensing and Regulatory Affairs (LARA) and on several State funds, including the School Aid Fund and the General Fund. The bill contains provisions that could generate fee revenue for the State. The proposed misdemeanor would have an indeterminate fiscal impact on local units of government.

The bill also would establish an application process for the certification of small distillers within MDARD, which would affect LARA and specifically the MLCC. The Liquor Purchase Revolving Fund is the enterprise fund used by the MLCC to conduct the State's business as the sole wholesaler of distilled spirits. Each year, the profit generated through this activity lapses to the General Fund. The bill would result in an unknown reduction in revenues to the Liquor Purchase Revolving Fund and consequently would result in a decrease in funds lapsing to the General Fund.

Under the bill, the gross return on each bottle of spirits from a qualified small distiller would be set at 32.5% rather than the current 65.0%. The number of small distillers that would be certified by MDARD and consequently affected by this change is unknown. Recent data on the

number of bottles sold by qualified small distillers are unavailable. Analysis using data from fiscal year (FY) 2011-12 suggests a maximum potential revenue loss of \$9.4 million across all funds, including a reduction in General Fund revenue (\$8.5 million), School Aid Fund revenue (\$600,000), Convention Facility Fund revenue (\$300,000), and a loss of less than \$50,000 in local revenue due to reductions in sales tax revenue to constitutional revenue sharing. However, the actual loss of revenue likely would be less due to the limited number of distillers that would receive certification. In addition, any effect the proposed lower markup would have on distiller behavior likely would take place over several years. As a result, the long-term effect of the reduced profit percentage on State revenues is unknown.

The bill also would result in costs to MDARD, including the hiring of 1.0 FTE auditor position at an estimated cost of \$150,000 for salary and other expenses. The Department could receive applications from small distillers to qualify as a "qualified small distiller", and would be allowed to charge a reasonable certification fee (in an unspecified amount). The Department then would be required to certify an applicant as a qualified small distiller, if it determined that at least 40% of the small distiller's base distillate was distilled from distilled grain grown and harvested in Michigan. The Department, along with the Commission, could examine the records and accounts pertaining to the qualified small distiller's distilled grain handling business. Beginning October 1, 2020, the Department would have to submit an annual report to the Commission, which would include the name of each qualified small distiller certified. The actual amount of revenue provided from application fees to MDARD to support certification activities would depend upon the amount of the fee and the number of distillers applying for certification. Any restricted funding amounts that fell short of the actual cost of administering the bill's provisions would have to be supported with General Fund revenue.

Date Completed: 11-12-19

Fiscal Analyst: Bruce Baker
Elizabeth Raczkowski