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BILL ANALYSIS



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Senate Bill 711 (as introduced 1-9-20)
Sponsor: Senator Jon Bumstead
Committee: Regulatory Reform

Date Completed: 1-14-20

CONTENT

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

- **Allow the Michigan Liquor Control Commission (MLCC) to issue a limited production manufacturer license.**
- **Require the MLCC to charge an initial and renewal license fee for a limited production manufacturer license of \$1,000.**
- **Allow a brewer, micro brewer, or their out-of-State equivalents to sell beer to a limited production manufacturer, and allow a limited production manufacturer to buy beer from a brewer, micro brewer, or their out-of-State equivalents, if certain conditions were met.**
- **Specify that a limited production manufacturer sell beer only to a wholesaler or a person located outside of the State regardless of whether the person was licensed under the Code.**
- **Prohibit a limited production manufacturer from holding a license in the wholesaler tier or retailer tier as provided under the Code.**
- **Require a limited production manufacturer to comply with all provisions of the Code that apply to the activities of a brewer.**
- **Prohibit a limited production manufacturer from self-distributing.**
- **Require a limited production manufacturer to register its beer and receive a registration number of approval before selling the beer in the State to a wholesaler.**
- **Require a limited production manufacturer to be the holder of a Federal brewer's notice issued by the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau.**

Limited Production Manufacturer License

Under the bill, the MLCC could issue a limited production manufacturer license to a person that purchased beer from another brewer, micro brewer, or out-of-State equivalent of a brewer or micro brewer for purposes of taking ownership of the beer and performing any of the manufacturing process as described in Section 109(1) of the Code. (Under Section 109(1) of the Code, "manufacture" means to distill, rectify, ferment, brew, make, produce, filter, mix, concoct, process, or blend an alcoholic liquor or to complete a portion of one or more of these activities. The term 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. In addition, the term does not include attaching a label to a shiner.)

The MLCC would have to charge an initial and renewal license fee for a limited production manufacturer license of \$1,000.

Unless specified otherwise, a brewer, micro brewer, or out-of-State equivalent of a brewer or micro brewer could sell beer to a limited production manufacturer and a limited production manufacturer could buy beer from a brewer, micro brewer, or an out-of-State equivalent of a brewer or micro brewer if all of the following conditions were met:

- The out-of-State equivalent of a brewer or micro brewer relinquished ownership of the beer to the purchasing limited production manufacturer.
- The limited production manufacturer modified the beer by performing all or part of the manufacturing process as described in Section 109(1) of the Code.
- The brewer, micro brewer, or out-of-State equivalent of a brewer or micro brewer notified the MLCC in writing of the sale and the amount of beer being sold to a purchasing limited production manufacturer before each sale.
- The brewer, micro brewer, or out-of-State equivalent of a brewer or micro brewer and the limited production manufacturer maintained records of the sale, in the manner required by the MLCC, for three years.

A limited production manufacturer could only sell beer to a wholesaler or a person located outside of the State regardless of whether the person was licensed under the Code. Beer sold by a limited production manufacturer to a person located outside of the State that held an outstate seller of beer license could be sold to a wholesaler in the State by the outstate seller of beer. (Currently, "outstate seller of beer" means a person licensed by the MLCC to sell beer that has not been manufactured in Michigan to a wholesaler in Michigan in accordance with rules promulgated by the MLCC. Under the bill, the term would include beer that a person purchased from a limited production manufacturer.)

A limited production manufacturer could not be licensed or hold a financial interest in another licensed supplier except for purposes of purchasing beer in the manner allowed under the bill. Also, a limited production manufacturer could not hold a license in the wholesaler tier or retailer tier as provided under Section 603 of the Code. (Section 603 of the Code specifies that all licensees, except for a licensed warehouse, are separated into three tiers composed of suppliers, wholesalers, and retailers. Section 603(13) generally prohibits a licensee holding a license in a given tier from holding, directly or indirectly, a license in one of the other two tiers.)

Except as otherwise provided, a limited production manufacturer would have to comply with all provisions of the Code that apply to the activities of a brewer.

A limited production manufacturer could not self-distribute.

Before selling beer in the State to a wholesaler, a limited production manufacturer would have to register the beer and receive a registration number of approval under R436.1611 of the Michigan Administrative Code. (The Michigan Administrative Code, R 436.1611, prohibits the sale of beer in Michigan unless certain requirements are met with respect to packaging and labeling. Among these, the beer must receive a registration number from, and be approved for sale by, the MLCC.)

A limited production manufacturer would have to be the holder of a Federal brewer's notice issued by the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau in accordance with Federal regulation.

FISCAL IMPACT

The bill would not have a significant fiscal impact on State government and would have no fiscal impact on local units of government. Under the bill, the initial and renewal fees for a limited production manufacturer license each would be \$1,000. Revenue from these fees would be deposited in the Michigan Craft Beverage Council Fund in an amount that cannot be determined at this time. Currently, annual revenue deposited into the Fund averages \$700,000 to \$800,000. Revenue from the \$70 inspection fee would be retained by the Michigan Liquor Control Commission. Existing appropriations likely would be sufficient to fund administrative activities related to the bill. The Department of Licensing and Regulatory Affairs currently expects one entity to apply for the proposed license.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.