

Legislative Analysis



MOTORSPORTS LIQUOR USE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4541 (Substitute H-2)

Sponsor: Rep. Dianne Byrum

Committee: Regulatory Reform

First Analysis (4-27-05)

BRIEF SUMMARY: The bill would allow patrons of motorsports complexes meeting certain criteria to carry in their own alcohol beverages for personal consumption.

FISCAL IMPACT: There is no fiscal impact on the State of Michigan.

THE APPARENT PROBLEM:

Public Act 725 of 2002 (enrolled Senate Bill 1401) amended the liquor code to allow, among other things, members of the general public under certain circumstances to bring alcohol purchased elsewhere into a motorsports entertainment complex for consumption on the complex grounds. One of the restrictions of the act is that it only applies to motorsports entertainment complexes that have at least 70,000 fixed seats for race patrons. The reasoning behind the act was that it had been a long standing practice for race patrons to bring their own alcoholic beverages to auto races. As drafted, the act applied only to the Michigan International Speedway (MIS) in Brooklyn.

However, there are 49 drag strips and oval tracks in the state, all of which have a loyal fan base that has been bringing alcoholic beverages to races for decades. But the liquor code prohibits a person from drinking alcohol in a commercial establishment that sells food if that establishment does not have a liquor license. Most of the tracks in the state do not have a liquor license but do sell food. Only recently have these track owners realized that they are breaking the law. Legislation has been offered to allow tracks without liquor licenses as small as 1,500 seats to allow patrons to bring their own alcoholic beverages as long as the tracks meet certain conditions.

THE CONTENT OF THE BILL:

House Bill 4541 would amend the Michigan Liquor Control Code to apply the provisions of Public Act 725 to motorsports entertainment complexes having at least 1,500 fixed seats. It also would add the Michigan State Promoters Association to the list of entities included in the definition of "sanctioning body." One of the provisions of PA 725 requires a track to serve food and beverages at the facility during sanctioned motorsports events through concession outlets of which a majority are staffed by individuals who represent or are members of nonprofit civic or charitable organizations that directly benefit from the food sales. The bill would remove the restriction that a majority of the concessionaires be from nonprofit civic and charitable organizations.

Furthermore, the code currently provides that possession and consumption of alcohol are allowed in portions of the complex open to the general public only under both of the following circumstances: 1) the licensed premises are located within the motorsports entertainment complex, and 2) the retail licensee holds a license for consumption on the licensed premises of the complex. This second condition would be deleted.

Lastly, retail liquor licensees are required to have at least \$50,000 in liquor liability insurance, a surety bond, or cash. The bill would place a similar requirement on track owners who are not retail licensees. Under the bill, a track owner without a liquor license would have to obtain and maintain liability insurance coverage of not less than \$50,000 for any civil action brought on or on behalf of an individual who suffered damage or was personally injured by a minor or a visibly intoxicated person if the unlawful consumption at a motorsports entertainment complex was proven to be a proximate cause of the damage, injury, or death of the individual.

MCL 436.1518

ARGUMENTS:

For:

Because most motorsports entertainment complexes in the state do not sell alcohol, it has been a longstanding practice for race fans to bring their own alcoholic beverages. Only recently have track owners realized that in permitting this, they are violating a provision of the liquor code that prohibits the consumption of alcoholic beverages on unlicensed premises if the establishment also serves food. The bill would remedy this situation by expanding the provisions of Public Act 725 of 2002, which only applied to the Michigan International Speedway, to all tracks with more than 1,500 seats. Members of the Michigan Speedway Promoters' Association feel that to do otherwise "would create a tremendous economic hardship in lost ticket sales revenue."

Further, the bill would lift a requirement that the majority of the concession outlets at the tracks be staffed by volunteers of charitable or nonprofit groups that work the concessions as a means fund-raising. Apparently, track owners can already get around this provision by forming a separate corporation to run the food sales. That tactic would also reportedly allow them to get around the code's ban on patrons bringing their own alcohol onto the premises of a commercial food establishment and so would also move them outside of the bill's reach. It would be better policy to remove the food sale restriction and keep motorsports complexes without liquor licenses subject to the provisions of PA 275 and to provisions of this bill. A track could still allow the concession outlets to be staffed by volunteers of charities if it chose to.

Against:

It would seem that the bill represents yet another expansion of drinking, this time allowing large scale drinking on unlicensed premises. Whereas the liquor code makes it illegal for a liquor licensee to sell or furnish alcohol to an intoxicated person, there are no such provisions to require an unlicensed establishment to take away a person's own beer

if he or she becomes drunk. Plus, these fans must drive home after the races. Some people might view the bills as creating a situation with a potential to increase drunk driving.

Response:

Motorsports events are largely family affairs involving children, teens, and couples on dates. Most patrons act responsibly; reportedly, when one county prosecutor looked into the police reports for the area surrounding a race track in his jurisdiction, he found no problems associated with the track or its practice of allowing fans to bring in their own alcohol. The bill will require track owners to maintain a minimal level of liability insurance coverage. Any individual who suffered injury due to a race patron's unlawful consumption of alcohol could bring a civil action to recover damages. Plus, fans are still required to abide by all the laws of the state. Just because they could legally bring alcohol into a race track under the bill doesn't mean that they would be exempt from laws prohibiting drunk driving, assault, or other criminal behavior.

POSITIONS:

A representative of Spartan and Calhoun Speedways testified in support of the bill. (4-26-05)

A representative of the Michigan Speedway Promoters' Association submitted written testimony in support of the bill. (4-25-05)

A representative of Merritt Speedway, Inc. indicated support for the bill. (4-26-05)

A representative of Crystal Motor Speedway indicated support for the bill. (4-26-05)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Richard Child

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.