

# Legislative Analysis

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## **ALLOW MICROBREWER SALES AT FARMERS MARKETS**

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

**House Bill 5426 (Substitute H-3)  
Sponsor: Rep. Marcia Hovey-Wright**

**House Bill 5427 (Substitute H-1)  
Sponsor: Rep. Andy Schor**

**Committee: Regulatory Reform**

**Complete to 5-27-14**

### **A SUMMARY OF HOUSE BILLS 5426 & 5427 AS REPORTED FROM COMMITTEE**

House Bills 5426 and 5427 would amend the Michigan Liquor Control Code to allow microbrewers to provide samples of their beer at farmers markets in Michigan. The bills are tie-barred together, meaning neither can take effect if one is not enacted.

House Bill 5426 would allow the Michigan Liquor Control Commission to issue a nontransferable permit to a microbrewer to conduct tastings and to sell its beer at farmers markets. Small wine makers are already allowed to apply for and receive the same permit. Existing guidelines relating to small wine makers would also apply to microbrewers.

Regardless of where a farmers market is located within a given county, only one permit for a qualified small wine maker and one permit for a qualified microbrewer could be issued for every 1,500 individuals, or fraction of 1,500, living in that county. The county's population would be determined by one of the following methods, whichever was conducted most recently: the last decennial federal census; a special census as provided for under the Home Rule City Act or the Glenn Steil State Revenue Sharing Act of 1971; or the latest census and corrections published by the U.S. Department of Commerce, Bureau of the Census.

A \$25 permit fee (as noted in MCL 436.1415) and a \$70 inspection fee (as provided for in MCL 436.1529) would be required with each application. Applicants also would have to submit documentation that the local police agency where the market is located and the market manager have approved the proposed activity. [Note: the current form provided by the Michigan Department of Licensing and Regulatory Affairs for small wine makers contains an authorization form to be signed by the local police agency and farmers market manager.]

While there would be no limit to how many farmers market permits an individual could obtain, each permit would only be valid for up to five separate locations.

Microbrewers must abide by the following rules once they receive a permit:

- Tasting and sales shall take place within a "well defined and clearly marked" area at the market, in a manner prescribed by the commission.
- Tastings and sales shall only be conducted by employees of the farmers market permit holder, and employees must have completed a server training program.
- Beer sold or provided for tasting shall be furnished from the permit holder's stock and immediately removed from market premises after the market has concluded.
- A customer would be limited to not more than three 3-oz. samples of beer in a 24-hour time period.
- Beer could only be sold by the growler, and permit holders would be limited to selling not more than two growlers to a customer per day. [Note: A "growler" is already defined in MCL 436.1537 as "any clean, refillable, resealable container that is exclusively intended, and used only, for the sale of beer for consumption off the premises and that has a liquid capacity that does not exceed one gallon."]

House Bill 5427 would amend the Michigan Liquor Control Code by defining "qualified microbrewer" as a microbrewer or the out-of-state entity that is the substantial equivalent that manufactures 6,000 gallons or less of beer in one calendar year. The bill also would add a farmers market to the list of places a qualified microbrewer is allowed to sample and/or sell beer.

***FISCAL IMPACT:***

The bill would have no significant fiscal impact on the state or local units of government.

***BACKGROUND INFORMATION:***

Public Act 100 of 2013 allowed small wine makers with an annual production of 5,000 gallons or less to provide samples and sell their wine at Michigan farmers markets. The sponsors of House Bills 5426 and 5427 said their intent was to expand this sampling to craft brewers in order to help them gain exposure for their product.

***ARGUMENTS:***

***For:***

Proponents of the legislation say these bills are a continuation of efforts that the legislature has undertaken in recent years to promote Michigan's growing craft beer industry. Allowing small breweries the opportunity to offer their respective beers for sample and sale at farmers markets, supporters note, will enable these start-up microbrewers to expand their fan base and in turn increase sales at other locations.

***Against:***

Opponents of these bills worry that they will lead to the erosion of Michigan's three-tiered system that keeps alcohol manufacturers, distributors, and retailers separate. Allowing sales and sampling at farmers markets, opponents say, will lead to a decline in sales at bars and restaurants, especially those that already fill growlers.

***POSITIONS:***

**Support:**

Michigan Brewers Guild (5-20-14)  
Michigan Municipal League (5-6-14)  
Michigan Farm Bureau (5-6-14)  
Michigan Farmers Market Association (5-6-14)  
Sleepwalker Spirits and Ale (5-6-14)  
Allen Neighborhood Center (5-6-14)

**Neutral:**

Michigan Liquor Control Commission (5-20-14)

**Oppose:**

Michigan Beer and Wine Wholesalers Association (5-20-14)  
Michigan Licensed Beverage Association (5-20-14)  
American Food and Petroleum Dealers (5-20-14)  
Michigan Alcohol Policy (5-6-14)  
Michigan Restaurant Association (5-6-14)

Legislative Analyst: Josh Roesner  
Fiscal Analyst: Paul Holland

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■ 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.