



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 344 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Dave Hildenbrand
Committee: Regulatory Reform

Date Completed: 4-11-16

RATIONALE

The Michigan Liquor Control Code provides for a number of different types of licenses that allow the sale or distribution of alcoholic beverages for consumption on or off of the licensed premises. These include a "specially designated merchant" (SDM) license, which authorizes the retail sale of beer or wine, or both, for off-premises consumption. Various types of businesses that are licensed to sell alcoholic beverages for consumption on the premises, such as hotels and taverns, may obtain an SDM license. An applicant for a specially designated distributor (SDD) license (which allows the sale of packaged liquor for off-premises consumption) also may apply for an SDM license. In addition, the Liquor Control Commission issues SDM licenses to other types of businesses, such as convenience stores, drug stores, food specialty shops, and delicatessens. Under the Liquor Control Code, however, only an applicant for an SDD license or "a retail vendor licensed to sell...for consumption on the premises" may apply for an SDM license. This means that other retailers, such as convenience stores and drug stores, technically may not apply for or obtain an SDM license (unless they also hold an SDD license). To rectify this, it has been suggested that the Code should authorize the issuance of an SDM license to a person who does not hold another liquor license.

CONTENT

The bill would amend the Michigan Liquor Control Code to allow a person to apply for a specially designated merchant license without holding or applying for any other license under the Code. The bill also would:

- Allow an applicant for certain types of on-premises licenses, or a specially designated distributor license, as well as a licensed retailer, to apply for a license as an SDM.**
- Allow an applicant for an SDM license not in conjunction with an on-premises license, or a person licensed as an SDM only or a class B hotel, to apply for a license as a specially designated distributor.**

Currently, a retail vendor licensed under the Code to sell for on-premises consumption may apply for a license as a specially designated merchant, and a specially designated distributor may apply for a license as an SDM. The bill would delete these provisions.

The bill would allow an applicant for a class C, class A hotel, class B hotel, class G-1, class G-2, tavern, or SDD license, or a retailer licensed under the Code to sell alcoholic liquor, to apply for a license as a specially designated merchant.

(A class C licensee may sell at retail beer, wine, mixed spirit drink, and spirits for on-premises consumption. A class A hotel may sell beer and wine for on-premises consumption. A class B hotel may sell beer, wine, mixed spirit drink, and spirits for on-premises consumption. A class G-1 license authorizes the retail sale of beer, wine, mixed spirit drink, and spirits for on-premises consumption at a golf course. A class G-2 license authorizes the retail sale of beer and wine for on-premises consumption at a golf course. A tavern is a place licensed to sell at retail beer and wine for on-

premises consumption. A specially designated distributor is a person engaged in an established business licensed by the Commission to distribute spirits and mixed spirit drink in the original package for off-premises consumption.)

In addition, under the bill, an applicant for an SDM license not in conjunction with an on-premises license, except as provided in Section 229(1), or a person licensed as an SDM only or a class B hotel could apply for a license as a specially designated distributor.

(Section 229(1) authorizes the Liquor Control Commission to license a hotel or merchant, in places designated by the Commission, to sell spirits for consumption off the premises.)

The bill would take effect 90 days after enactment.

The bill is tie-barred to House Bill 4895. Enrolled House Bill 4895 would amend provisions of the Liquor Control Code under which an SDM or a SDD may own or operate fuel pumps on or adjacent to the licensed premises, to: reduce the minimum distance required between where fuel is dispensed and where liquor is sold; allow an SDM to own or operate motor vehicle fuel pumps if it were the only person in a township that owned or operated fuel pumps; and allow an SDM meeting conditions to own or operate fuel pumps adjacent to the licensed premises to obtain a "secondary location permit" for the sale of beer and/or wine at a secondary location where the SDM or a subsidiary or affiliate owned or operated fuel pumps, on or adjacent to the primary location.

MCL 436.1533

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Liquor Control Code was enacted in 1998 and replaced a 1933 statute governing the sale and distribution of alcoholic beverages in Michigan. Many provisions of the earlier statute, including references to specially designated merchant licenses, were recodified when the 1998 law was enacted. The new legislation also includes the section that limits the applicants for an SDM license to specially designated distributors and retail vendors licensed to sell for on-premises consumption. Despite this language, in the almost 30 years since the Code was enacted, numerous other types of businesses have received SDM licenses, allowing them to sell beer and wine for off-premises consumption. The bill would reflect this practice in the Code, authorizing the Liquor Control Commission to issue an SDM license to a person who does not hold any other type of liquor license. The bill also would retain provisions under which SDM licenses also may be issued to SDDs and certain establishments that are licensed to sell alcoholic beverages for on-premises consumption, including hotels, golf clubs, and taverns. In addition, the bill would permit a person applying for an SDM license not in conjunction with an on-premises license, or a licensed SDM or Class B hotel, to apply for a license to sell packaged liquor for off-premises consumption.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Michigan Liquor Control Commission (MLCC) within the Department of Licensing and Regulatory Affairs and a positive, but likely minor, fiscal impact on local units of government. Under the bill, on-premises license applicants would be allowed to apply for a specially designated merchant license, and specially designated merchant license applicants would be allowed to apply for a specially designated distributor license. To the extent that this would cause license applicants to apply for more licenses than they otherwise would have, the bill would result in both greater revenue for the MLCC and greater costs. Under current law, any additional license fee revenue generated under the bill would be credited as follows: 55% to local law enforcement, 3.5% to alcoholism programs, and 41.5% to the MLCC for licensing and enforcement.

Liquor license fees in general do not generate sufficient revenue to cover the MLCC's licensing and enforcement costs; license fee revenue shortfalls have historically been covered by appropriations from the Liquor Purchase Revolving Fund, which derives revenue from the 65% MLCC markup on the sales of spirits. In the case of the license applications that would be allowed under the bill (\$100 per year for SDM; \$150 plus \$3 per \$1,000 in liquor purchases per year for SDD), it is unknown whether the marginal cost to process those additional licenses would be greater or less than the revenue that would be generated, so the effect of the bill on the MLCC is indeterminate.

Fiscal Analyst: Josh Sefton

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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.