



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bills 6541 and 6542 (as passed by the House)  
House Bill 6543 (Substitute H-2 as passed by the House)  
Sponsor: Representative Brandt Iden (H.B. 6541 & 6543)  
Representative Curtis S. VanderWall (H.B. 6542)  
House Committee: Regulatory Reform  
Senate Committee: Regulatory Reform

Date Completed: 12-12-18

**CONTENT****House Bill 6541 would amend the Michigan Liquor Control Code to do the following:**

- Allow a specially designated distributor (SDD) that sold spirits to a special licensee to offer the licensee a discount.
- Allow an SDD to refund a licensee for the return of unopened bottles.
- Allow an SDD that refunded spirits to charge a licensee a restocking fee.

**House Bill 6542 would amend the Code to allow a vendor of spirits to provide a special licensee with certain brand logoed merchandise.**

**House Bill 6543 (H-2) would amend the Code to do the following:**

- Allow the Michigan Liquor Control Commission (MLCC) to issue a special license to a qualified organization for a spirits tasting.
- Prohibit a special licensee from holding more than six spirits tastings per calendar year.
- Allow a special licensee that did not receive a discount from an SDD for the purchase of spirits under House Bill 6541 to receive a rebate if certain conditions were met.

House Bill 6543 (H-2) is tie-barred to Senate Bill 1181, which would prohibit cooperative advertising between certain entities involved in the manufacture and sale of alcoholic liquor.

**House Bill 6541**

Under the bill, an SDD that sold spirits to a special licensee could offer the licensee a discount on the licensee's purchase of spirits. A discount would have to come from the SDD's discount under Section 233 (which allows a 17% discount on the sale price of alcoholic liquor by State liquor stores to SDDs and establishments licensed to sell for on-premises consumption).

An SDD that sold spirits to a special licensee could refund the licensee for the return of an unopened bottle in the same amount that the licensee paid for the spirits if the bottle was without damage to the exterior that would prevent the sale of the bottle.

An SDD that refunded spirits to a special licensee could charge the licensee a restocking fee of up to 10% of the amount the licensee paid for the spirits. A restocking fee would be considered income for handling expenses.

"Specially designated distributor" means a person engaged in an established business licensed by the MLCC to distribute spirits and mixed spirit drink in the original package for off-premises consumption.

"Special license" means a contract between the MLCC and a licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license must be granted only to a person or organization for a period of time as the MLCC determines so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the MLCC may not deny a special license solely by the applicant's affiliation with an organization that also is eligible for a special license.

### **House Bill 6542**

Under the bill, notwithstanding Section 609 of the Code, a vendor of spirits could provide a special licensee with any of the following for the licensee's use during the effective period of a special license:

- A brand logoed tent.
- A brand logoed trailer.
- A brand logoed temporary platform.

"Temporary platform" would mean a preestablished platform that was exclusively used to serve, dispense, or mix drinks upon, including any refrigeration equipment or mixing equipment.

(Section 609 allows a manufacturer, outstate seller, or vendor of spirits to provide brand logoed merchandise to an on-premises and off-premises retailer to promote the brand and price of its products if certain conditions are met.)

### **House Bill 6543 (H-3)**

The bill would allow the MLCC to issue a special license to a qualified organization conducting a spirits tasting. An application would have to conform to all of the following:

- Be submitted by a qualifying organization.
- The spirits tasting involved an event having for its primary purpose the showcasing of spirits and the spirits' production and/or mixability.
- Be accompanied by a fee of \$25 per day of the event.

"Spirits tasting" would mean an event at which spirits are showcased to the general public, and at which the general public can purchase and sample the spirits being showcased for consumption on the licensed premises.

"Qualified organization" would mean a nonprofit association whose membership includes at least 15 primary members and consists of at least three of the following that are licensed by the MLCC:

- Vendors of spirits.
- Small distillers.

- Brokers, as that term is defined in Section 609 (a person, other than an individual, that is licensed by the MLCC and that is employed or otherwise retained by a manufacturer of spirits or a vendor of spirits to sell, promote, or otherwise assist in the sale or promotion of spirits).
- Authorized distribution agents.

The holder of a special license issued for a spirits tasting could not allow more than six events per calendar year.

A holder of a special license issued for a spirits tasting could purchase the spirits for the event under Administrative Rule 436.582. (Rule 436.582 allows a special licensee to purchase spirits from a licensed SDD at the uniform sales prices set by the MLCC; purchase beer and wine from a licensed SDD, a licensed wholesaler, or a licensed Michigan wine maker or small wine maker; and purchase mixed spirit drink from a SDD or from a licensed wholesaler.)

A special licensee that did not receive a discount from an SDD for the purchase of spirits under Section 609d (which House Bill 6541 would enact) could receive a rebate on the purchase of spirits subject to all of the following:

- The rebate would have to be the difference of the purchase price of the special licensee paid to the SDD, and the sum of the following: a) the price the MLCC paid for the spirits before establishing the price to determine the gross profit calculated under Section 233; b) 15% of the price the MLCC paid for the spirits; and c) specific taxes calculated on the price of the spirits under Section 233.
- The special licensee would have to submit one combined request for a rebate by March 1 of the each year for all spirit tasting events for which it was issued a special license in the previous calendar year.
- By June of each year, the MLCC would have to issue a combined rebate to the special licensee for each of the events in the previous calendar year for which the special licensee submitted a request for a rebate.
- A special licensee would have to submit its request for a rebate on a form prescribed by the MLCC.

The form would have to include all of the following information with its request for a rebate:

- The date or dates of the spirits tasting events for which a rebate was being requested.
- The name and license number of the SDD from which the spirits were purchased.
- The purchase price paid per bottle to the SDD.
- The special licensee would have to submit a copy of the receipt or invoice that showed the price it paid for the spirits to the SDD and any products returned under Section 609d.

(Section 233 requires the MLCC to establish uniform prices for the sale of alcoholic liquor in State liquor stores and by specially designated distributors. The prices must return a gross profit to the Commission of not less than 51% and not greater than 65%.)

A holder of a special license issued for a spirits tasting and the members vendors of spirits, small distillers, authorized distribution agents, and brokers whose vendor representatives, salespersons, or agent were licensed by the MLCC, could pour and serve spirits, with or without mixers.

Proposed MCL 436.1609d (H.B. 6541)  
Proposed MCL 436.1609e (H.B. 6542)  
Proposed MCL 436.1028 (H.B. 6543)

Legislative Analyst: Stephen Jackson

## **FISCAL IMPACT**

### **House Bills 6541 & 6542**

The bills would have no fiscal impact on State or local government.

### **House Bill 6543 (H-2)**

The bill would have an indeterminate but likely minor fiscal impact on the Department of Licensing and Regulatory Affairs. A qualified organization would have to pay the Michigan Liquor Control Commission a fee of \$25 per day in order to obtain the special license. An organization could obtain this license for no more than six events per calendar year. An organization that did not receive a discount from a specially designated distributor on their purchase of spirits could apply to the MLCC for a rebate. The MLCC would be required to issue a qualified rebate according to the formula described in the bill.

The new license fee and existing appropriations likely would be sufficient to cover any additional processing expenses created by the bill. The magnitude of the fiscal impact would depend on the number of license applications, as well as the size and number of any rebates.

The bill would have no fiscal impact on local government.

Fiscal Analyst: Elizabeth Raczkowski

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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.