

REQUIRE TAGS ON BEER KEGS

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House Bill 4565

Sponsor: Rep. Mark Meadows

Committee: Regulatory Reform

Complete to 4-21-09

A SUMMARY OF HOUSE BILL 4565 AS INTRODUCED 3-11-09

Among other things, the bill would amend the Michigan Liquor Code to require all kegs of beer sold at retail to have an attached identification tag, require ID and a signature to purchase a keg, create an administrative fine for retailers and a criminal penalty for consumers for a certain violations, and prohibit a local government from enacting a conflicting ordinance. For purposes of the bill, “keg” would mean any brewery-sealed individual container having liquid capacity of six gallons or more.

Applicability of the bill. The bill would apply only to kegs sold at retail for use by a member of the general public. An identification keg would not have to be attached to a beer keg being used for on-premise consumption only, being stored, or being transported.

Retailer duties. A retailer would have to:

- * Attach the identification tag to a beer keg before or at the time of sale.
- * Require the purchaser to present a driver’s license or state ID card and complete and sign a receipt. A keg could not be sold without the required identification.
- * If a keg was returned without the tag attached, refuse to accept it or to return the deposit. However, the bill would not prohibit a commission agent or a law enforcement agent from returning an untagged keg and receiving the keg deposit.
- * Retain a deposit as authorized by law.
- * Retain a copy of a receipt for at least 30 days and make it available for inspection by the Michigan Liquor Control Commission and law enforcement agencies.

Commission duties. The Michigan Liquor Control Commission (LCC) would be required to:

- ** Supply retailers, upon request, with a receipt as described in the bill. The receipt would have to contain a place for the purchaser’s personal information and signature.
- ** Supply retailers with a sign stating that the retailer will not accept return of the keg or return the deposit if the tag is not attached, the purchaser agrees to not remove or alter the

keg's identification tag, and that the purchaser understands he or she is subject to liability for serving the beer to minors.

** Make identification tags available to retailers. The tags would have to be easily removable to allow for cleaning and reuse of the keg by the keg's owner.

Penalties. The remedies under the bill would be cumulative, and the bringing of a criminal action would not prohibit the bringing of a civil or administrative action as provided by law.

A retailer would be subject to an administrative fine of not more than \$500 if he or she failed to attach an identification tag to a keg, failed to complete the required receipt, or failed to obtain the purchaser's signature on the receipt.

A person who was not licensed as a retailer or wholesaler by the LCC who possessed a keg without an attached identification tag and/or who provided false information in the purchase of a beer keg would be guilty of misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both.

Restriction on local governments and Legislative intent. A local government could not enact an ordinance that conflicted with the bill. The bill states that the Legislative intent of the bill is to preempt any ordinance enacted in contravention of the bill.

FISCAL IMPACT:

The bill would require the Liquor Control Commission to provide retailers with the receipt forms that retailers would be required to use when selling kegs of beer under the provisions of the bill, and with the identification tag that must be affixed to the keg when it is sold. The cost of these materials is at present not known, although the costs might not be insignificant, depending on the number of kegs sold in Michigan. (The LCC doesn't keep track of beer sales by the type of container--bottle, can, or keg, so the exact number of receipts and tags that would be necessary isn't immediately known.)

The bill also requires the LCC to provide retailers with signs notifying consumers concerning the use of a keg. The amount of such signage would not likely be significant. Additionally, the bill would impose an administrative fine of \$500 on retailers who fail to comply with the bill's keg tax requirements. Ostensibly, this penalty would be in addition to other sanctions that may be meted out by the LCC in the course of administering and enforcing state liquor laws (which include license suspension or revocation.) Any revenue generated from the administrative fine would be credited to the General Fund.

The bill would impose additional administrative and enforcement costs on the LCC and local law enforcement agencies to ensure compliance on the part of retailers and consumers. The bill does not, however, provide any additional resources to the LCC or local law enforcement agencies. (The activities of the LCC and local law enforcement agencies as it relates to the enforcement of liquor laws are generally financed through the

issuance of retail liquor licenses, where 41.5% of license fee revenue is retained by the LCC for administrative and enforcement, and 55% is returned to local governments for enforcement activities.) The licensing and enforcement activities of the LCC are partially funded by the Liquor Purchase Revolving Fund. To the extent the bill increases LCC expenditures from the LPRF it would serve to reduce the LPRF transfer to the General Fund.

To the extent that misdemeanor convictions increased under the bill, local units of government could incur increased costs of jail incarceration or misdemeanor probation supervision, both of which vary with jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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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.