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

BILL ANALYSIS

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

House Bill 5578 (Substitute H-1 as passed by the House)
Sponsor: Representative Hugh Crawford
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 11-13-14

CONTENT

The bill would amend the Michigan Liquor Control Code to do the following:

-- **Remove the cap on a fee that the Liquor Control Commission (LCC) may pay to a vendor of spirits to offset its costs in contracting with an authorized distribution agent.**
-- **Delete a limit on the sale of spirits from a specially designated distributor (SDD) to an on-premises licensee.**

The Code defines "vendor of spirits" as a person selling spirits to the LCC.

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

Distribution Fee Cap

The Code requires the LCC to appoint authorized distribution agents to warehouse and deliver spirits in Michigan to ensure that all retail licensees are properly serviced with spirits.

In addition to paying a vendor of spirts the acquisition price for purchasing spirits, the LCC may pay each vendor of spirits an additional amount of between $4.50 and $7.50 for each case of spirits purchased, as an offset to the costs incurred by that vendor in contracting with an authorized distribution agent for warehousing and delivering spirits to retailers. The bill would eliminate the $7.50 maximum limit on that additional payment.

SDD Sale to On-Premises Licensee

The Code allows a specially designated distributor to sell up to nine liters of spirits during any one-month period to an on-premises licensee, and allows an on-premises licensee to purchase up to that amount from SDDs during any one-month period. The bill would delete the nine-liter limit on those sales.

The bill also would delete provisions specifying that an SDD is only liable for knowingly violating the nine-liter limit, and requiring on-premises licensees to maintain records verifying those purchases and make them available to the LCC upon request.

MCL 436.1205

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a potentially negative fiscal impact on State General Fund/General Purpose (GF/GP) revenue, and no fiscal impact on local units of government. The bill would remove the statutory cap of $7.50 per case on the fee paid by the Michigan Liquor Control Commission to authorized distribution agents for the warehousing and delivery of spirits, which would allow the LCC to raise this fee if it chose to do so. Increases in this fee would not affect the operations of the Commission, but would effectively reduce GF/GP revenue.

The LCC uses the Liquor Purchase Revolving Fund (LPRF) as the enterprise fund for all of its activities as the sole wholesaler of spirits in Michigan. Each year, surplus LPRF funds are deposited to the State General Fund; these surpluses roughly represent the profit that the LCC made during the prior fiscal year. Since the LPRF is annually deposited into the State General Fund, any increases in LCC costs will ultimately manifest themselves as a reduction in the amount of that deposit during the subsequent fiscal year. According to the fiscal year (FY) 2012-13 Comprehensive Annual Financial Report, the FY 2012-13 LPRF deposit was $169.6 million.

It is not clear how much the LCC would increase the fee if the bill were enacted and the opportunity to do so existed, or even if it would at all. The Office of Regulatory Reinvention Advisory Rules Committee (ARC) June 2012 recommendations for liquor control addressed this issue. One of the ARC recommendations suggested that an index could be identified to adjust the per-case fee annually to account for inflation, and suggested that the Warehousing and Transportation Sector Producer Price Index (PPI) from the Bureau of Labor Statistics could be used for that purpose. This particular PPI measure goes back only to December 2006, but if that and the $6.97 per-case fee that was in effect when the ARC recommendation was written are used as a starting point, use of this index would mean that the per-case fee would be $8.78 for 2014, assuming the current fee would have been set in January 2014 and there was a three-month lag in PPI data. This would represent a 17.1% increase from the current fee of $7.50. From an annual cost perspective, the LCC indicated in its revenue, sales, and licensing statistics report that a total of 7,372,714 cases of spirits were sold in Michigan during FY 2011-12. Applying the ARC recommendation to use the Warehousing and Transportation Sector PPI as an indexing mechanism, and assuming FY 2013-14 spirit sales were similar to those of FY 2011-12, the fee increase would result in the loss of approximately $9.4 million in GF/GP revenue annually, and that annual loss would increase as the PPI increases over time. It bears repeating, however, that the bill would not require the LCC to follow the ARC recommendation, nor would it require the Commission to increase the fee at all.

Fiscal Analyst: Josh Sefton