

Legislative Analysis



LIQUOR CONTROL CODE: UNPAID SOCIAL MEDIA ADVERTISEMENTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5257 as enacted
Public Act 106 of 2016
Sponsor: Rep. Klint Kesto
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform
Complete to 7-25-16

BRIEF SUMMARY: House Bill 5257 amended the Liquor Control Code by adding a new Section 610 to permit certain unpaid social media advertisements. The bill will take effect on August 1, 2016.

(The term "social media" as used in the bill refers a service, platform, or website where users communicate with one another and share media, such as pictures, videos, music, and blogs, with other users free of charge. The term also includes the website of a wholesaler, manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, vendor of spirits, broker, or retailer.)

FISCAL IMPACT: House Bill 5257 would not have a significant fiscal impact on the state or local units of government.

THE APPARENT PROBLEM:

Advertising of alcoholic drinks other than those specifically allowed by law must be approved by the Michigan Liquor Control Commission (MLCC). Neither the administrative rules governing advertising of alcohol nor the Michigan Liquor Control Code previously addressed unpaid social media advertisements, such as those where users communicate free of charge on shared media and those on business websites. Furthermore, certain interactions between different tiers of licensees also require approval.

To address this issue, House Bill 5257 specifically allows certain information to be advertised via unpaid social media. This means allow certain licensees would not have to obtain MLCC permission for these kind of advertisements. The bill was supported by, the Michigan Brewers Guild, Michigan Restaurant Association, the Michigan Beer & Wine Wholesalers Association, the Michigan Licensed Beverage Association, and Great Lakes Wine & Spirits.

THE CONTENT OF THE BILL:

Under the bill the following can use unpaid social media to advertise: a wholesaler, manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drinks, vendor of spirits, broker, and retailer.

The advertisements are restricted to the following, in accordance with all applicable laws and regulations:

- An on-premises brand promotion.
- Beer, wine, or spirits tastings under Section 537.
- A product location communication.

The bill would add the following terms applicable to this section:

"Broker" would mean a person, other than an individual, that is licensed by the Liquor Control Commission 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.

"On-premises brand promotion" would mean a promotion in the manner provided by the order of the commission issued on October 27, 1999. That order's prohibition against advertising an on-premises promotion by a party off the licensed premises would not apply here.

"Product location communication" would mean a listing or program that allows an individual to determine the availability of a specific product at licensed retailers in a certain geographic area.

As noted above, "Social media" would mean a service, platform, or website where users communicate with one another and share media, such as pictures, videos, music, and blogs, with other users free of charge. Social media includes the website of a wholesaler, manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, vendor of spirits, broker, or retailer.

Legislative Analyst: Josh Roesner
Fiscal Analyst: Paul B.A. Holland

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.