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House Bill 6426 (Substitute H-1 as passed by the House)
House Bill 6427 (as passed by the House)
Sponsor: Representative Bert Johnson
House Committee: Regulatory Reform

CONTENT

House Bill 6426 (H-1) would amend the Michigan Liquor Control Code to do the following:

- Prohibit a person from selling, delivering, or importing spirits (bootlegging) unless the sale, delivery, or importation were made by the Liquor Control Commission (LCC), the LCC's authorized agent or distributor, an authorized distribution agent certified by LCC order, or a person licensed by the LCC, or by prior written order of the LCC.
- Establish criminal penalties for a violation of that prohibition involving 8,000 or more milliliters, establish a civil fine for a violation involving less than that amount, and provide that a violation involving at least 80,000 milliliters would be subject to forfeiture.
- Establish an administrative fine of up to \$2,500 and license sanctions for a retail licensee who sold, furnished, possessed, or allowed the consumption of liquor that the licensee had not bought from the LCC or an person listed above or by order of the LCC.
- Allow a vendor of spirits or a manufacturer to conduct a consumer sampling event on the premises of a specially designated distributor (a business licensed to sell packaged liquor for off-premises consumption) under certain conditions.
- Allow the LCC to set a fee of up to \$500 for a consumer sampling event license.
- Create a wine auction license that would allow a specially designated merchant (a person licensed to sell beer and/or wine at retail for off-premises consumption), or a seller partnering with a specially designated merchant, to sell privately owned wine at up to 12 auctions per year.
- Establish a \$50,000 fee for a wine auction license and require 100% of the fee to be deposited in the General Fund.
- Authorize the LCC to permit a manufacturer or out-State seller of spirits to conduct a preapproved program for marketing spirits by packaging nonalcoholic carbonated beverages with spirits (value-added packaging).
- Require the LCC to provide for a system of instant or non-mail-in coupon transactions (instant rebates) that did not diminish the spirit product margins allocated to the State.

House Bill 6427 would amend the Michigan Penal Code to include a felony violation Section 909(4) of the Liquor Control Code as a predicate offense to racketeering activity. (Under House Bill 6426 (H-1), that section would establish the penalties for the illegal sale, delivery, or importation of spirits.)

The bills are tie-barred.

MCL 436.1205 et al. (H.B. 6426)
750.159g (H.B. 6427)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

House Bill 6426 (H-1) would make several changes to the Michigan Liquor Control Code that are projected to result in the following changes in combined revenue to the General Fund and Liquor Purchase Revolving Fund (LPRF):

- Bootlegging enforcement: \$4.0 million
- Value-added packaging: \$2.1 million
- Instant rebates: \$1.7 million
- Sampling: \$0.8 million
- Wine auctions: \$0.5 million

The above figures were used in the FY 2010-11 budget General Fund target agreement and therefore reflect only the expected revenue to the General Fund and to the LPRF, which lapses to the General Fund at the end of each fiscal year. Industry experts project that the changes proposed in the bill would increase sales of spirits. Michigan receives revenue from the sale of spirits in two principal ways: First, it is the wholesaler of all spirits in the State, and marks up each case of spirits before it is sold to a retailer. Second, a collective 13.85% tax is levied on spirits. Revenue from the wholesale of spirits would account for most of the \$9.1 million in additional revenue discussed above and would be credited to the LPRF. The remainder of the revenue would come from the 13.85% tax, which breaks down as follows:

- 1.85% tax on sales to off-premises licensees, credited to the LPRF
- 4.0% tax credited to the Convention Facilities Development Fund
- 4.0% tax credited to the General Fund
- 4.0% tax credited to the School Aid Fund.

In addition to the \$9.1 million, the School Aid Fund and Convention Facilities Development Fund would receive additional revenue under the bill. It is projected that each would receive an additional \$0.9 million in revenue annually.

The bill also would establish penalties for the illegal importation or sale of spirits, which would include the forfeiture of the illegally imported or sold spirits as well as fines. It is unclear how much revenue would be raised by these fines, but resulting criminal fine revenue would benefit public libraries.

House Bill 6427 would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offense. To the extent that the bill increased the number of felony convictions related to racketeering, the State would incur increased costs. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$34,000.

Date Completed: 9-22-10

Fiscal Analyst: Matthew Grabowski
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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.