

Legislative Analysis



ALLOW INTRA-COUNTY TRANSFER OF SDD LICENSES

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House Bill 5140

Public Act 273 of 2013

Sponsor: Rep. John Walsh

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Complete to 4-14-14

A SUMMARY OF HOUSE BILL 5140 AS ENACTED

The bill amended the Liquor Control Code (at MCL 436.1531) to allow for the intra-county transfer of specially designated distributor (SDD) licenses.

[SDD license holders are able to sell spirits and mixed spirit drinks in their original packaging for consumption off the licensed premises. According to the Liquor Control Commission (LCC), the most common businesses with SDD licenses are grocery stores, drug stores, and convenience stores. Currently, SDD licenses can only be transferred within the municipality in which they were originally issued.]

Under the bill, an SDD license can be transferred to an applicant whose proposed operation is located within any local governmental unit in the county in which the SDD license was located. Such a transfer would be subject to the approval of the LCC. If the local unit of government within which the former licensee's premises were located spans multiple counties, the license could be transferred to an applicant whose proposed operation is located in either county. Transfer of an SDD license would require the consent of the LCC.

If the SDD license is activated within a local unit of government other than the local unit in which the license was originally issued, the license would count against the quota for the local unit that originally issued the license.

The final version of the bill included a Senate amendment that increases, from 10 to 15, the number of SDD licenses that can be issued to businesses designed to attract tourists and visitors to a resort area and are located within communities with less than 50,000 in population that have exhausted their SDD quota. The individual applying for an SDD license under this provision must state that an attempt was made to secure an escrowed or quota SDD license and that one is not readily available within the county.

FISCAL IMPACT:

House Bill 5140 could have an indeterminate, yet likely nominal, fiscal impact on the LCC if it results in an increase in the number of SDD licenses transferred. The LCC would collect and retain SDD transfer fees equal to the application fee for SDD licenses: \$150 plus \$3 for each \$1,000 or major fraction of that amount in excess of \$25,000 of the

total retail value of merchandise purchased under the license during the previous calendar year.

BACKGROUND INFORMATION AND DISCUSSION:

The bill would allow for the intra-county transfer of SDD licenses. Currently, SDD licenses can only be transferred within the municipality where it was issued. According to testimony, SDD licenses are the only licenses whose transfers are restricted to the municipality. Class C licenses, for example, can be transferred anywhere in the county in which it was originally issued.

SDD licenses are issued according to a quota system and once the quota within a municipality is reached, no new SDD licenses may be issued within that municipality. For individuals looking to open a new business in a community that has exhausted its SDD quota, the only option is for the individual to purchase an escrowed license. According to testimony, it can be very difficult to find an escrowed SDD license and there are several municipalities in the state that have exhausted their quota and have very few or no escrowed licenses available. There are currently 241 SDD licenses in escrow and not in use.

To remedy this situation, it has been proposed to allow SDD licenses to be transferred anywhere in the county where the license was issued. SDD licenses are not distributed based on market forces, but rather on population. Intra-county transfer would allow the license market to adapt to population shifts within a county and allow growing municipalities that have exhausted their quota to attract licenses from municipalities that do not have a demand for its SDD licenses.

Additionally, according to testimony, the LCC has started to revoke SDD licenses that have been in escrow for more than five years. Allowing those licenses to be transferred anywhere in the county could help escrowed license holders to more easily sell their licenses instead of having them revoked by the LCC.

Additionally, transferred licenses would count against the quota of the municipality that originally issued the license if the license is activated in a different municipality. The bill could allow for a municipality to exhaust its quota and yet have few or no SDD establishments because the licenses have been transferred elsewhere in the county. There is also concern that some municipalities could become oversaturated with liquor stores because transferred licenses would not count against the quota of the destination municipality. As a result, a municipality could have several more SDD licenses in operation than is allowed under the current quota system.

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