

SALES AND DELIVERIES OF BEER, WINE, AND SPIRITS

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Senate Bill 1088 as enacted
Public Act 520 of 2016
Sponsor: Sen. Peter MacGregor
House Committee: Commerce and Trade
Senate Committee: Regulatory Reform
Complete to 3-27-19

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

SUMMARY:

The bill amends the Michigan Liquor Control Code as described below.

Off-premise retailer may use third-party facilitator to deliver beer, wine, or spirits

The bill allows a retailer holding a specially designated merchant (*SDM*) license or a retailer holding a specially designated distributor (*SDD*) license to use a *third-party facilitator service* by means of the internet or a mobile application to facilitate the sale of beer or wine or spirits, as applicable, to be delivered to the home or designated location of consumer. The bill also allows a third-party facilitator to deliver beer and wine to a consumer on behalf of the SDM or spirits on behalf of the SDD, if it verifies that the individual accepting delivery is at least 21 years old and other conditions are met. The facilitator must offer services for all brands available at the retail location.

An *SDM license* allows the sale of beer and wine for off-premises consumption.¹ An *SDD license* allows the sale of spirits and mixed spirit drink in the original package for off-premises consumption.² (Spirits refers to such products as whiskey, gin, and vodka.)

The bill defines *third party facilitator service* as a person licensed by the Liquor Control Commission (LCC) to do any of the following:

- Facilitate the sale of beer, wine, or spirits to a consumer as provided in the bill on behalf of a retailer that holds an SDM or SDD license, respectively, located in Michigan.
- Deliver beer, wine, or spirits to a consumer as provided in the bill on behalf of a retailer that holds an SDM or SDD license, respectively, located in Michigan.

A third-party facilitator must obtain a facilitator license from the LCC, which can establish initial and renewal license fees by written order.

A manufacturer, warehouse, wholesaler, outstate seller of beer, or outstate seller of wine may not have a direct interest in a third-party facilitator and may not aid or assist a facilitator by a gift, loan of money, property, or other valuable things (as defined in the Code).

If a third-party delivery service violates the bill's provisions, the LCC cannot treat the delivery service's violation as a violation by the retailer that used the delivery service.

¹ https://www.michigan.gov/documents/lara/SDMInfo_501311_7.pdf

² https://www.michigan.gov/documents/lara/SDDInfo_501310_7.pdf

Off-premises retailer may use common carrier to deliver wine

The bill allows a retailer that holds an SDM license to use a common carrier to deliver wine to a consumer in Michigan by mail order, telephone, or electronic means, if the retailer verifies that the individual placing the order is at least 21, the container meets detailed labeling requirements, and other conditions are met. A retailer using a common carrier must pay all applicable taxes to the LCC and the Department of Treasury.

Reporting requirements for common carriers and third-party facilitator services

The bill establishes reporting and record keeping requirements for common carriers and third-party facilitators. Each must submit quarterly reports providing specified information about each delivery to a consumer in the preceding calendar quarterly, including the name and address of shippers and recipients; the weight of the product delivered; and the date of delivery. The reports are subject to the Freedom of Information Act.

Both kinds of entity must maintain books, records, and documents supporting a report for three years, unless the commission provides written notification that they may be destroyed. They are subject to inspection by the LCC and local law enforcement within 30 days of a request.

Out-of-state retailer provision deleted

The bill deletes provisions that allowed an out-of-state retailer holding a license substantially equivalent to a Michigan SDM license to use a third party that delivers beer or wine to a consumer's home, or other designated location, in municipalities surrounded by water. Under the bill, a Michigan SDM can continue to do this.

FISCAL IMPACT:

Senate Bill 1088 would have an indeterminate, though likely neutral, fiscal impact on the Department of Licensing and Regulatory Affairs. The bill would require the Michigan Liquor Control Commission to develop a licensing process for third party facilitators, who would be able to deliver beer and wine for specially designated merchants. The bill would allow the MLCC to charge an application fee, an initial license fee, and an annual license renewal fee for licensure as a third party facilitator. These fees would likely be set at a level such that expenditures by the department would be offset by fee revenues. The bill would also require that any applicable taxes be paid to the MLCC and the Department of Treasury by common carriers delivering wine for specially designated merchants. The bill would not result in fiscal impacts for other units of state or local government.

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■ 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.