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BILL ANALYSIS



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House Bill 5257 (as passed by the House)
Sponsor: Representative Klint Kesto
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Date Completed: 3-22-16

CONTENT

The bill would add Section 610 to the Michigan Liquor Control Code to allow a wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, vendor of spirits, broker, or retailer to use unpaid social media to advertise any of the following in accordance with all applicable laws and regulations:

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

Section 610 would apply notwithstanding Section 609 (described below).

The bill would define "on-premises brand promotion" as a promotion in the manner provided by the order of the Liquor Control Commission issued on October 27, 1999. The bill states that the order's prohibition against advertising an on-premises promotion by a party off the licensed premises would not apply to Section 610. (The order issued on October 27, 1999, permits licensed suppliers and wholesalers to conduct on-premises brand promotion events under the provisions of an administrative rule that governs advertising (R 436.1321) and in compliance with a number of conditions.)

"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.

"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. The term would include 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.

"Broker" would mean that term as defined in Section 609.

(Under Section 609, except as otherwise provided in that section and in other sections of the Code, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may not aid or assist any other vendor, but may provide another licensee with advertising items that promote its brands and prices of alcoholic liquor, in a manner consistent with rules, regulations, and orders of the Commission. Such an entity also may provide another licensee

with goods and services that were approved by the Commission before January 1, 2014, as well as specific items listed in the Code.

Section 609 also governs a retailer's use or possession of advertising items, and allows a retailer to possess and use brand logoed barware that advertises spirits as long as the items are purchased from a manufacturer of spirits, vendor of spirits, salesperson, broker, or barware retailer.

Section 609 defines "broker" as a person, other than an individual, that is licensed by the Commission and that is employed or otherwise retained by a manufacturer or vendor of spirits to sell, promote, or otherwise assist in the sale or promotion of spirits.)

Proposed MCL 436.1610

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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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.