

# Legislative Analysis

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## MICHIGAN CRAFT BEVERAGE COUNCIL

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

**House Bill 4667 as introduced**  
**Sponsor: Rep. Brandt Iden**

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

**House Bill 4668 as introduced**  
**Sponsor: Rep. Klint Kesto**

**Committee: Regulatory Reform**  
**Updated on 6-15-17**

### REVISED SUMMARY:

House Bill 4667 renames the Grape and Wine Industry Council as the "Michigan Craft Beverage Council," revises the council's membership, and modifies its duties.

House Bill 4668 allows money received by the Michigan Liquor Control Commission from certain sources to be credited to the Michigan Craft Beverage Council, and replaces references to the Grape and Wine Industry Council with the Michigan Craft Beverage Council.

The bills are tie-barred to each other and would take effect 90 days after enactment.

House Bill 4667 would amend Section 303 of the Michigan Liquor Control Code (MCL 436.1303). Executive Reorganization Order 2014-2 abolished the Grape and Wine Industry Council in existence at the time and created a new Grape and Wine Industry Council with a revised membership. The bill makes further revisions to the statutory provisions pertaining to the Council. Significantly, the bill renames the Council as the Michigan Craft Beverage Council. The bill changes the membership of the Council to one nonvoting member and nine voting members, as follows:

- The director of the Department of Agriculture and Rural Development (MDARD) or a designee, as a nonvoting member.
- An individual who operates a retail food establishment that holds a specially designated merchant license (SDM) and sells Michigan wines or beer.
- An individual who operates a restaurant that holds a Class C license and serves Michigan wines.
- Two wine makers.
- A wine maker that manufactures wine made from fruit other than grapes.
- A large brewer, defined in the bill as a brewer that produces at least 60,000 barrels of beer but not more than one million barrels of beer per year. In determining this barrel threshold, all brands and labels of a brewer, regardless of whether brewed in Michigan, must be combined and include all facilities for production of beer owned or controlled by the same person.
- An individual who holds a brewpub license.
- A small distiller.

- A distiller that manufactures more than 60,000 gallons of spirits per year.

The voting members must be appointed by the governor and would serve three-year terms (or until a successor is appointed). Initial terms will be staggered as specified in the bill. A nongovernmental member could (instead of being required to) receive \$50 per day for each day spent in actual attendance at Council meetings and traveling expenses while on Council business.

Currently, the membership under E.R.O. 2014-2 comprises the following:

- ✓ Three wine makers appointed by the governor.
- ✓ A wine grape grower appointed by the governor.
- ✓ The Chief Executive Officer of the Michigan Economic Development Corporation, or a designee.
- ✓ The Director of the Department of Agriculture and Rural Development, or a designee, who shall serve as chairperson of the council.
- ✓ A staff member of Michigan State University appointed by, and serving at the pleasure of, the Dean of the College of Agriculture and Natural Resources of Michigan State University.
- ✓ The Chairperson of the Liquor Control Commission, or a designee, as an ex officio member.
- ✓ A person who operates a retail food establishment that holds a specially designated merchant license and sells Michigan wines, or a person who operates a restaurant that holds a Class C license and serves Michigan wines, appointed by the governor.
- ✓ A beer and wine wholesaler who markets Michigan wine, appointed by the governor.
- ✓ Two members of the public, appointed by the governor.

### ***Council duties***

Currently, several of the Council's duties are focused on wine grapes. The bill would instead apply those provisions to fruits used in winemaking. The bill also adds the following duties:

- Providing for research on hops, barley, beer, and spirits, including, but not limited to, methods of planting, growing, controlling insects and diseases, marketing, processing, distribution, advertising, sales production, and product development.
- Providing the brewing and distilling industries, including growers, brewers, distillers, distributors, and retailers, with information relative to proper methods of handling and selling hops, barley, beer, and spirits.
- Developing and administering financial aid programs to hops and barley growers to encourage increased planting of desirable varieties in Michigan in microclimates determined to provide the best conditions for producing quality beer.
- Preparing and approving an annual budget.
- Applying for, receiving, and accepting a grant from the office that promotes the Pure Michigan tourism campaign, or any successor campaign.
- Establishing educational partnerships to benefit the beer, wine, and spirits industries.

The bill will also require the Council to expend at least 50 percent of its annual budget on research and financial aid to growers.

### ***Lobbying***

The bill will prohibit the Council from engaging in lobbying, although the Council, a Council member, or Council employee would not be prohibited from providing technical information to the Legislature or to the MDARD, regardless of whether the person is appearing before an officially convened Legislative committee or MDARD hearing panel, if the technical information is related to the Council's duties. "Lobbying" and "technical information" mean those terms as defined in Section 5 of Public Act 472 of 1978 (MCL 4.415).

The bill would not prevent the Council from establishing a commodity committee under the Agriculture Commodities Marketing Act.

**House Bill 4668** would also amend the Michigan Liquor Control Code (MCL 436.1221 and 436.15431). Currently, all money deposited by the Liquor Control Commission with the state treasurer must be credited to either the revolving fund for expenditures authorized by the Code or credited to the General Fund to be available for the purposes for which the general fund is available. The bill would add the Michigan Craft Beverage Council, to be used as described in Section 303 (as amended by House Bill 4667), as a third option for where the money may be credited.

The bill also replaces references to the Grape and Wine Industry Council with references to the Michigan Craft Beverage Council.

### **FISCAL IMPACT:**

#### ***LARA Impact***

House Bills 4667 and 4668 would not have a fiscal impact on the Department of Licensing and Regulatory Affairs.

#### ***MDARD Impact***

House Bill 4667 would rename the Grape and Wine Industry Council as the Michigan Craft Beverage Council and give the Council additional areas of responsibility to the Council's mission as described in the body of this analysis. House Bill 4668 would amend Sec. 543 to earmark non-retail liquor fees to the Michigan Craft Beverage Council.

Neither House Bill 4667 nor House Bill 4668 provide for new or increased fee revenue. Without additional funding, the additional program activities established in House Bill 4667 would have to be funded out of existing Council resources, specifically, non-retail liquor fee revenue.

Section 303(4) of the Liquor Code currently authorizes the Council to employ personnel and incur expenses to carry out the purposes of the Council. The section also requires that personnel and Council expenses be paid out of the non-retail liquor fee revenue earmarked to the Council in Section 543(2). House Bill 4667 would retain the current language of Section 303(4) but would add new language that would require the Council to spend at least 50% of its annual budget on research and financial aid programs.

### ***Background***

The Michigan Grape and Wine Industry Council was established in 1998 under Section 303 of the Michigan Liquor Control Code of 1998 as an agency within the Michigan Department of Agriculture. Executive Reorganization Order 2014-2 abolished the statutory Michigan Grape and Wine Council and transferred all of the statutory authority, powers, duties, functions, and responsibilities under Section 303 of the Michigan Liquor Code to a new Michigan Grape and Wine Council under the Michigan Department of Agriculture and Rural Development (MDARD).

As currently provided under Section 303, the Council is directed to: provide for research on wine grapes and wines; provide the wine industry with information on the proper methods of handling and selling wine grapes and wine; provide for market surveys and analysis; promote the sale of Michigan wine grapes and wines; and develop and administer financial aid programs to wine grape growers to encourage the planting of desirable wine grapes in Michigan.

A number of licensing and regulatory fees are established under the Michigan Liquor Code. Section 543 of the Code provides for the distribution of fee revenue. Generally retail license and renewal fees are earmarked for enforcement of the licensing and regulatory enforcement provisions of the Liquor Code. Section 543 currently earmarks all other license and license renewal fees, i.e. fees other than retail license and renewal fees, to the Michigan Grape and Wine Council. The fees earmarked to the Grape and Wine Council in Section 543 are designated in MDARD budget as "non-retail liquor fees." These non-retail liquor fees generate approximately \$750,000 annually.

In the 2015-16 fiscal year MDARD budget, the total appropriation for Council activities was \$856,500, of which \$45,000 represented private industry funds used to support specific industry promotional events. The majority of funding, \$811,500, came from non-retail liquor fee revenue. The 2016-17 fiscal year MDARD budget appropriates \$1.1 million for Council activities: \$45,400 from private industry funds, \$875,600 from non-retail liquor fees, and \$170,000 from the state General Fund. The General Fund support was designated in the budget as "one time basis only."

According to the Council's internal budget for FY 2015-16, estimated administrative expenses (staff salaries, benefits, travel, and other administrative expense) were \$488,000 or 57% of projected Council expenditures. Consumer and trade promotion and education totaled \$150,000 or 18% of the budget; the budget line for Viticulture and enology research totaled \$120,000 or 14% of the Council's internal budget. Each year the Council awards grants, primarily to Michigan State University researchers, to fund various wine grape research proposals.

The 2015-16, 2016-17 fiscal year enacted MDARD budget, as well as the proposed FY 2017-18 fiscal year MDARD budget, authorized 3.0 full-time equated positions for the Council.

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