

Legislative Analysis



LIQUOR CONTROL CODE: SPIRITS AND SPECIAL LICENSES

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

House Bill 4620 (H-1) as referred to second committee
Sponsor: Rep. Brandt Iden

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

House Bill 4621 as referred
Sponsor: Rep. Jack O'Malley

Senate Bill 588 as passed by the Senate
Sponsor: Sen. Jeremy Moss

1st Committee: Regulatory Reform
2nd Committee: Ways and Means

House Committee: Ways and Means
Senate Committee: Regulatory Reform

Complete to 12-10-19

BRIEF SUMMARY: As a package, the bills would create a special license for a qualified organization to conduct a spirits tasting; allow a vendor of spirits to provide a special licensee with a brand-logoed tent, platform, or trailer for use during the special event; and allow a specially designated distributor (SDD) to sell discounted spirits to a special licensee.

FISCAL IMPACT: House Bill 4620 would have a minor fiscal impact on the Michigan Liquor Control Commission (MLCC) within the Department of Licensing and Regulatory Affairs (LARA). The bill could potentially reduce revenues to the Liquor Purchase Revolving Fund, and subsequently to the General Fund. House Bill 4621 and Senate Bill 588 would not have a fiscal impact on LARA or any other unit of state or local government. (See *Fiscal Information*, below, for a detailed analysis.)

THE APPARENT PROBLEM:

Under the Michigan Liquor Control Code, nonprofit organizations may apply for up to 12 special licenses a year. The license, which is valid for one day, allows the charitable organization to sell beer, wine, mixed spirit drink, or spirits at retail for consumption on the premises only. In addition, a special license can be obtained that allows an organization to auction wine that has been donated to it and another that allows a nonprofit organization comprising brewers, microbrewers, and/or brewpubs to obtain up to six beer festival special licenses in a calendar year.

However, according to committee testimony, special licenses currently are not available for sellers of spirits—as they are for sellers of beer and wine—due to outdated state laws. Legislation has been proposed to address that issue.

THE CONTENT OF THE BILLS:

House Bill 4620 would add a new section to the Liquor Control Code to create a special license for a *qualified organization* conducting a *spirits tasting*.

Spirits tasting would mean an event at which spirits are showcased to the general public and at which the general public could purchase and sample the spirits being showcased for consumption on the licensed premises.

Qualified organization would mean a nonprofit association established for the primary purpose of representing the interests of vendors of spirits, craft distillers, and brokers whose membership includes at least 15 primary members and consists of at least three of the following that are licensed by the MLCC:

- Vendors of spirits
- Small distillers
- Brokers, meaning persons, other than individuals, that are licensed by the MLCC and that are employed or otherwise retained by a manufacturer of spirits or a vendor of spirits to sell, promote, or otherwise assist in the sale or promotion of spirits
- Authorized delivery agents

An application for a spirits tasting special license would have to be submitted by a qualified organization, with a fee of \$25 per day of the event, and the spirits tasting being applied for would have to involve an event with the primary purpose of showcasing spirits and the spirits' production or mixability.

The holder of a spirits tasting special license could purchase spirits as provided under departmental rules, which allow a special licensee to purchase spirits from an SDD at the uniform sales price set by the MLCC and mixed spirits drink from an SDD or from a licensed wholesaler.

The holder of the special license could receive a rebate on the purchase of spirits as specified in the bill. A special licensee would submit a combined request for a rebate by March 1 of each year for all of the events for which it held a special license in the previous calendar year. The MLCC would have to issue the combined rebate to the special licensee by June of each year. The rebate for any one event could not exceed \$10,000.

The special license holder could not have more than six such events per year. The license holder and the member vendors of spirits, small distillers, authorized distribution agents, and brokers whose vendor representatives, salespersons, or agents are licensed by the MLCC, could pour and serve spirits, with or without mixers.

Finally, a qualified organization would have to designate a supervisor who has completed a server training program on each shift and during all hours when alcoholic liquor is served.

The bill is tie-barred to House Bill 4622, meaning that it could not take effect unless HB 4622 were also enacted. [Note: SB 588 is identical to HB 4622.]

Proposed MCL 436.2028

House Bill 4621 would add a new section to the Liquor Control Code to allow a vendor of spirits to provide a special licensee with a brand logoed tent, brand logoed *temporary platform*, and/or a brand logoed trailer for use during the effective period of the special license. *Temporary platform* would mean a preestablished platform exclusively used to serve,

dispense, or mix drinks on, and would include any refrigeration equipment or mixing equipment. [Currently, section 609 of the act prohibits a vendor from aiding or assisting another vendor by gift, loan of money or property, or any other valuable thing, or by premiums or rebates.]

Proposed MCL 436.1609e

Senate Bill 588 would add a new section to the Liquor Control Code to allow an SDD to refund the special licensee for an unopened bottle in the same amount that the special licensee paid for those spirits, less any of the SDD's credit card transaction fees incurred from the sale, but only if the bottle had no damage to the exterior that would prevent it from being resold.

Proposed MCL 436.1609d

BACKGROUND INFORMATION:

The bills are largely identical to House Bills 6541 to 6543 of the 2017-18 legislative session.¹ Those bills were reported out of the House Regulatory Reform committee, passed by the House, and reported from the Senate Regulatory Reform committee, but were not considered by the full Senate.

BRIEF DISCUSSION:

Taken together, the bills would provide spirits vendors parity with beer and wine vendors. Under the bills, eligible organizations could receive a special license to hold an event similar to beer or wine festivals, receive and display logoed tents and platforms for use at the event, buy spirits for the event at a discounted price and return unopened bottles for a refund, and conduct spirits tastings. All of these are available to special licensees hosting a beer and wine festival.

Industry members point to the growing popularity of products made by craft distillers. Just as beer and wine festivals can highlight Michigan breweries and wineries, making Michigan a destination for aficionados, so could festivals featuring Michigan's craft distillers. The bills would enable small distillers to grow their market share, and benefit all vendors of spirits, while supporting Michigan's economy and tourist industry similarly to what is currently in place for craft beer and wine producers.

FISCAL INFORMATION:

House Bill 4620 would have a minor fiscal impact on the MLCC within LARA. The bill could potentially reduce revenues to the Liquor Purchase Revolving Fund, and subsequently to the General Fund.

The MLCC would likely experience minimal increases in administrative costs under the bill, but these costs would likely be sufficiently covered by existing departmental appropriations and revenues. The bill would establish a fee of \$25 per day for special licenses issued under

¹ House Fiscal Agency analysis: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6541-D37DB974.pdf>

the section. Revenues from this fee would depend on the number of entities seeking the license and the number of days the licensed event would last. The MLCC estimates that, at present, only two entities would meet the bill’s definition of “qualified organization” and be eligible to obtain a license under the bill.

The bill would allow special licensees under the bill to receive a rebate on spirits purchased by the special licensee. The rebate amount would be determined by the following formula:

$$\text{Rebate} = \text{Purchase Price Paid by Special Licensee to Specially Designated Distributor} - (\text{Price Paid by Liquor Control Commission for Spirits} + 15\% \text{ of MLCC Purchase Price} + \text{Specific Taxes})$$

As a practical example provided by the MLCC, a bottle of spirits that retails for \$19.99 would have an associated rebate of \$5.23. For an event in which \$14,000 in total sprits were purchased, the rebate to the licensee would total approximately \$3,500. This rebate would result in a direct reduction of revenues to the Liquor Purchase Revolving Fund, whose net revenues are transferred to the General Fund. The actual reduction to revenues would depend on the amount of rebates approved for licensees, but the amount is anticipated to be relatively low, given the limited number of entities that can receive a license and the limited number of events licensees can hold.

House Bill 4621 and Senate Bill 588 would not have a fiscal impact on LARA or any other unit of state or local government.

POSITIONS:

Representatives of the following entities testified in support of the bills (6-11-19):

- Michigan Spirits Association
- Michigan Festivals and Events Association

The following entities indicated support for the bills (6-11-19):

- Michigan Liquor Control Commission
- Michigan Beer & Wine Wholesalers Association
- Midwest Independent Retailers Association
- Michigan Licensed Beverage Association
- Southern Glazer’s Wine and Spirits
- Michigan Craft Distillers Association

The following entities indicated a neutral position on the bills (6-11-19):

- Michigan Retailers Association
- Michigan Brewers Guild

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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.