

Legislative Analysis



ALCOHOL DISPENSING MACHINES

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House Bill 5304 as introduced
Sponsor: Rep. Rodney Wakeman
Committee: Regulatory Reform
Revised 2-7-22

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

SUMMARY:

House Bill 5304 would amend the Michigan Liquor Control Code to allow most retailers who hold an on-premises liquor license and certain manufacturers with a tasting room permit to have a machine that dispenses alcohol to a customer on the licensed premises if certain conditions are met. The bill would codify provisions of rule R 436.1045 of the Michigan Administrative Code that now allow such machines in hotel rooms and at customer's tables under certain circumstances (see "Dispensing machines under the rule," below). However, it would expand those provisions to allow mixed spirit drink to be dispensed at a customer's table (the rule now allows only beer or wine), and it would add new provisions to allow for dispensing machines that are operated by secure key cards and are not located at a customer's table. House Bill 5304 is similar to Senate Bill 656.

Dispensing machines under the bill

The bill would add a new section to the Michigan Liquor Control Code to generally prohibit an *on-premises licensee* from allowing on the licensed premises a machine that dispenses alcohol directly to a customer and to establish exceptions providing that this prohibition does not apply to any of the following:

- A dispensing machine located in a bedroom or suite of a hotel of a class A or class B hotel licensee.
- A dispensing machine located at an on-premises licensed establishment if all of the following conditions are met:
 - The dispensing machine is located at a customer's table or booth.
 - The dispensing machine does not dispense more than 96 ounces of beer, wine, or mixed spirit drink in a single order.
 - The dispensing machine does not dispense spirits.
 - The customer orders the beer, wine, or mixed spirit drink from a clerk, servant, agent, or employee of the licensee.
 - The licensee does not sell, offer to sell, or advertise the sale of an unlimited quantity of beer, wine, or mixed spirit drink from the dispensing machine.
 - The sale, service, and consumption of the dispensed alcohol are monitored by the licensee or the licensee's clerk, servant, agent, or employee to ensure compliance with the code and rules promulgated under it.
- A dispensing machine located at an on-premises licensed establishment if all of the following conditions are met:
 - The dispensing machine is not located at a customer's booth or table.
 - The customer activates the dispensing machine with a secure key card supplied by the licensee or the licensee's clerk, servant, agent, or employee.
 - The secure key card is attached to the customer at all times through a necklace or bracelet or other means of securing it to the customer.

- The dispensing machine does not dispense more than 16 ounces of beer, 12 ounces of wine, or 12 ounces of mixed spirit drink before the secure key card is reactivated.
- The dispensing machine does not dispense spirits.
- The sale, service, and consumption of the dispensed alcohol are monitored by the licensee, clerk, servant, agent, or employee to ensure compliance with the code and departmental rules promulgated under it.

On-premises licensee would mean either of the following:

- A retailer that holds a license, other than a special license, to sell alcohol for consumption on the licensed premises.
- A manufacturer with an on-premises tasting room permit, off-premises tasting room permit, or joint off-premises tasting room license issued under section 536 of the code.

Under section 537 of the code, retailers that hold a license to sell alcohol for consumption on the licensed premises include, but are not limited to, the following:

- Taverns.
- Class C (e.g., restaurants).
- Clubs: sale only to bona fide members at least 21 years of age.
- Class A and class B hotels.
- Brewpubs.
- Class G-1 or G-2 (golf courses).
- Motorsports event licensees.
- Certain manufacturers (e.g., a small wine maker, brandy manufacturer, or mixed spirit manufacturer) in an approved tasting room.

Dispensing machines under the rule

R 436.1045 of the Michigan Administrative Code now generally prohibits a licensee from allowing on the licensed premises a vending machine that dispenses alcohol directly to a customer, whether or not operated by coin or currency, and establishes exceptions providing that this prohibition does not apply to either of the following:

- A dispensing machine, commonly known as an “in-room bar device,” whether or not operated by coin or currency, that is located in the bedrooms or suites of licensed hotels.
- A dispensing machine that is located at an on-premises licensed establishment under all of the following conditions:
 - The dispensing machine is located at a patron’s table or booth only.
 - The dispensing machine does not dispense more than 96 ounces of beer or wine in a single order.
 - The dispensing machine does not dispense spirits or mixed spirit drink.
 - The patron of the establishment ordered the beer or wine from the clerk, servant, agent, or employee of the licensee, who verified the patron’s legal age and determined that the patron can otherwise be served an alcoholic beverage.
 - The licensee does not sell, offer to sell, or advertise the sale of an unlimited quantity of beer or wine from the dispensing machine.
 - The licensee monitors the sale, service, and consumption of beer or wine from the dispensing machine to ensure compliance with the code and rules promulgated under it.

R 436.1045 also prohibits a manufacturer, outstate seller of beer or wine, or wholesaler from selling, giving, or otherwise furnishing dispensing equipment, furniture, or fixtures to a retail licensee and a retail licensee from purchasing, receiving, or otherwise accepting the dispensing equipment from any of those licensees.

Further, R 436.1045 allows a manufacturer, wholesaler, or retail licensee who sells alcohol to a special licensee to provide draft beer-dispensing equipment or cooling equipment to the special licensee for use during the effective period of the special license.

Proposed MCL 436.1552

FISCAL IMPACT:

The bill would not have an appreciable fiscal impact on any unit 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.