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Senate Bill 868 (as introduced 5-9-24)
Sponsor: Senator Kevin Hertel
Committee: Regulatory Affairs

Date Completed: 6-3-24

CONTENT

The bill would amend the Michigan Liquor Control Code to modify the definitions of "brand" and "brand extension" for certain alcoholic beverages. Specifically, a brand would include various names of the supplier, and the bill would specify that new products using similar branding to an existing product would be considered a brand extension.

Under the Code, "brand" means any word, name, group of letters, symbol, trademark, or combination thereof adopted and used by a supplier to identify a specific beer, malt beverage, wine, mixed wine drink, or mixed spirit drink product and to distinguish that product from another beer, malt beverage, wine, mixed wine drink, or mixed spirit product.

("Supplier" means a brewer, a micro brewer, an outstate seller of beer, a wine maker, a small wine maker, an outstate seller of wine, a manufacturer of a mixed wine drink, an outstate seller of a mixed wine drink, a mixed spirit manufacturer, and an outstate seller of a mixed spirit drink.)

Instead, "brand" would mean any group of words, letter, group of letters, symbol, group of symbols, or combination thereof adopted and used by a supplier to name, identify, or trademark a specific beer, malt beverage, wine, mixed wine drink, or mixed spirit drink product. The bill would specify that a supplier's legal name, assumed name, trade name, or any doing-business-as name would be considered a brand name, identifier, or trademark if it were used in the marketing or packaging of the alcoholic beverage described above or in any of the container types of that the alcoholic beverage was offered for sale in to a consumer except if the supplier's legal name, assumed name, trade name, or any doing-of-business name were used solely for the purpose of any of the following:

- Identifying the supplier that had manufactured the alcoholic beverage described above.
- Identifying the supplier that had bottled the alcoholic beverage described above.
- Identifying the supplier that had imported the alcoholic beverage described above.

Currently, "brand extension" means any brand that incorporates all or a substantial part of the unique features of a preexisting brand, regardless of whether the extension is beer, wine, mixed wine drink, or mixed spirit drink. Instead, under the bill, the term would mean any beer, wine, mixed wine drink, or mixed spirit drink, that is marketed in any manner, using the same name, identifier, or trademark, associated with a brand that has preceded it in being sold or offered for sale in the State or a derivative or portion of the name, identifier, or trademark regardless of any of the following:

- The addition of words or letters in a word.
- The addition of a name, identifier, or trademark.
- The addition of a symbol.

- Any differences in the packaging, formulation, or production of the alcoholic beverage described above or the shape, size, or type of container in which that alcoholic beverage was sold.
- Changes to the alcohol category used in the brand extension.
- The manufacturer, importer, or licensed outstate seller of the brand extension being different from the manufacturer, importer, or licensed outstate seller of the underlying brand the extension was based on.

"Alcohol category" would mean a beer category, wine category, a mixed wine drink category, or mixed spirit category.

MCL 426.1105

FISCAL IMPACT

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

Analyst: Nathan Leaman

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