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BILL  ANALYSIS

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Senate Bill 1094 (as enacted)
Senate Bills 1154 through 1168 (as enacted)
Sponsor: Senator Jim Stamas (S.B. 1094)
Senator Tory Rocca (S.B. 1155 through 1158)
Senator Joe Hune (S.B. 1159 through 1163)
Senator Rebekah Warren (S.B. 1164 through 1168)
Senate Committee: Regulatory Reform
House Committee: Regulatory Reform

PUBLIC ACT 472 of 2018
PUBLIC ACTS 403-417 of 2018

Date Completed: 4-8-19

CONTENT

Senate Bill 1094 amended the Michigan Liquor Control Code to allow the Michigan Liquor Control Commission (MLCC) to issue a national sporting event license for the Ladies Professional Golf Association (LPGA) Tour Champions Tournament events in 2019 through 2023.

Senate Bill 1154 amended the Code to do the following:

- Refer to "approved tasting room", instead of "location".
- Modify certain provisions pertaining to brewers and micro brewers who sell beer for on-premises consumption at a licensed brewery premises.
- Allow a brewer or micro brewer to sell beer that it produces at one licensed brewery premises at an approved tasting room located on any of its brewery premises if certain requirements are met.

Senate Bill 1155 amended the Code to do the following:

- Prohibit a manufacturer from selling or transfer alcoholic liquor to a licensed manufacturer in the State, unless certain conditions are met.
- Allow a manufacturer to sell or transfer wine or spirits to a licensed manufacturer, and allow a licensed manufacturer to receive wine or spirits, only if certain conditions are met.

Senate Bills 1156 and 1167 amended Sections 436.1113 and 436.1113a of the Code, respectively, to revise the definition of "wine", and add to both sections a definition of "tasting room".

Senate Bills 1157 and 1158 amended the Code to change citations to the Michigan Compiled Laws sections that Senate Bill 1160 amended.

Senate Bill 1159 amended the Code to do the following:

- Require the Michigan Liquor Control Commission (MLCC) to allow a person to be licensed as more than one type of manufacturer.

- **Allow the MLCC to approve a licensed manufacturer to operate one or more tasting rooms.**
- **Allow a tasting room to be operated by two or more manufacturers if certain conditions are met.**
- **Require on-premises and off-premises tasting rooms to comply with certain requirements.**
- **Allow a manufacturer to sell alcoholic liquor it manufactured for on-premises or off-premises consumption in an approved tasting room, and allow it to sell or give away samples for on-premises consumption.**
- **Require revenue received from initial permit fees for an approved tasting room to be deposited into the Liquor Control Enforcement and License Investigation Revolving Fund.**

Senate Bill 1160 amended the Code to revise the definition of "manufacturer" and add definitions of "manufacture" and "manufacturing premises".

Senate Bill 1161 amended the Code to modify provisions that allow a small distiller to sell at retail from its licensed premises and give samplings or tasting.

Senate Bills 1162 and 1163 amended the Code to change citations to the Michigan Compiled Laws sections that Senate Bill 1166 amended.

Senate Bill 1164 amended the Code to do the following:

- **Modify certain classes of vendors that may sell alcoholic liquor at retail**
- **Include additional classes of vendors that may sell alcoholic liquor at retail.**
- **Delete various provisions allowing a wine maker to conduct wine tastings on its manufacturing premises.**
- **Delete a provision allowing a brandy manufacturer or small distiller to conduct tastings of brandy or spirits, respectively, on its manufacturing premises.**

Senate Bills 1165 and 1166 amended the Code to revise various definitions, and add new definitions.

Senate Bill 1168 amended the Code to change citations to the Michigan Compiled Laws section that Senate Bills 1159 and 1164 amended.

Senate Bill 1094 took effect on December 27, 2018. Senate Bills 1154 through 1168 took effect on December 19, 2018.

The bills, except for Senate Bills 1157, 1158, 1162, and 1163, are discussed in greater detail below.

Senate Bill 1094

The Code allows the Michigan Liquor Control Commission to issue national sporting event licenses for the sale of alcoholic liquor for consumption on the premises concerning a national sporting event, if the Commission finds that all of the following circumstances exist:

- The local governmental unit in which the event is to be conducted is the host governmental unit for that event.
- The premises to be licensed is located in a theme area or theme areas designated by the governing body of the host governmental unit in conjunction with the event or are operated in conjunction with the event.

- The MLCC determines that the event will attract a substantial number of tourists from outside of Michigan.
- The event is conducted under the auspices of a national sanctioning body.

In addition, the applicant must be one of the following:

- A Michigan licensee for the sale of alcohol liquor for on-premises consumption.
- The promotor of the national sporting event or an affiliate of the promotor.
- A person who has entered into a written Commission-approved concession or catering agreement with the promotor or its affiliate.
- An organization qualified for licensure as a special licensee, as provided in the Code and rules.

A license may not be issued for more than 30 consecutive days, and must be for specific designated time periods that include the national sporting event and activities associated with it. The Commission may not issue more than 40 licenses for use at the same time in a theme area or areas. An applicant must pay the MLCC a license fee of \$1,000 at the time of the application.

Previously, "national sporting event" meant a sports-related event considered of national prominence and included only the following:

- The 2005 Major League Baseball All-Star Game.
- The 2006 National Football League Super Bowl.
- The 2008 Professional Golfers' Association (PGA) Championship.
- The 2009 National Collegiate Athletic Association Final Four.
- The 2016 U.S. Golf Association Amateur Championship.
- The PGA Tour Champions Tournament in 2018, 2019, and 2020.

The bill adds the LPGA Tour Champions Tournament events in 2019 through 2023 to the list of events considered a national sporting event.

Senate Bill 1154

Previously, under Section 411 of the Code, a brewer that was not licensed as a micro brewer could sell its beer for on-premises consumption at not more than two locations in the State that were on any of its licensed brewery premises where the brewer engaged in the production of beer.

A licensed micro brewer that produced in total fewer than 30,000 barrels of beer per year could sell its beer for on-premises consumption at any location in this State that was on any of its licensed brewery premises where the micro brewer engaged in the production of beer.

A licensed micro brewer that produced in total 30,000 barrels of beer or more per year could sell its beer for on-premises consumption at not more than three locations in the State that were on any of its licensed brewery premises where the micro brewer engaged in the production of beer.

Instead, under the bill, a brewer that is not licensed as a micro brewer may sell its beer for on-premises consumption at not more than two approved tasting rooms in the State.

A licensed micro brewer that produces in total fewer than 30,000 barrels of beer per year may sell its beer for on-premises consumption at any of its approved tasting rooms in this State.

A licensed micro brewer that produces in total 30,000 barrels of beer or more per year may sell its beer for on-premises consumption at not more than three approved tasting rooms in the State

Also, under the bill, subject to the requirements of the bill and Section 537 (which Senate Bill 1164 amended), a brewer or micro brewer may sell beer it manufactured for on- or off-premises consumption at an approved tasting room if the tasting room is located on licensed brewery premises where the brewer or micro brewer manufactures. The sale of beer is subject to the limitations listed above.

Previously, the Code specified that, subject to the limitations listed above, if a brewer or micro brewer had more than one licensed brewery premises, it could sell for on-premises consumption beer that it had produced at one brewery premises at any of its other licensed brewer premises.

The bill, instead, allows a brewer or micro brewer to sell beer that it produces at one licensed brewery premises *at an approved tasting room located* on any of its other licensed brewery premises *if* one of the following requirements is met:

- The licensed brewery premises that receives the beer, on which the approved tasting room is located, has an installed and functional multivessel system capable of producing and fermenting at least three barrels of wort in a single batch.
- The licensed brewery premises that receives the beer, on which the approved tasting room is located, produces a volume of beer equivalent to 50% of the volume of beer sold to consumers at that tasting room.
- The licensed brewery premises that receives the beer, on which the approved tasting room is located, submitted an application for licensure at that location before October 1, 2018.
- The licensed brewery premises that receives the beer, on which the approved tasting room is located, is a location that the MLCC approved as a wine tasting room before October 1, 2018, for which an application was received after October 1, 2018, to transfer the wine tasting room to the same person who is applying as a micro brewer at that location.

The application of licensure as a micro brewer at the location must have been submitted before January 30, 2019, and the wine tasting room location must be actively operated at the time the micro brewer is issued.

Senate Bill 1155

Under the bill, a manufacturer may not sell or transfer alcoholic liquor to a licensed manufacturer in the State except as provided below.

Notwithstanding any provision of the Code to the contrary, a manufacturer may sell or transfer wine or spirits to a licensed manufacturer, and a licensed manufacturer may purchase or receive wine or spirits, under either of the following conditions:

For a sale or transfer of wine:

- The selling or transferring manufacturer is a wine maker, small wine maker, or out-of-State entity that is the substantial equivalent of a wine maker or small wine maker, and is selling or transferring the wine to a wine maker, small wine maker, or out-of-State entity that is the substantial equivalent of a wine maker or small wine maker.
- The purchasing or receiving wine maker or small wine maker manufactures wine at its licensed premises or the purchasing or receiving small wine maker bottled wine at its licensed premises.

For a sale or transfer of spirits:

- The selling or transferring manufacturer is a distiller, small distiller, or out-of-State entity that is the substantial equivalent of a distiller or small distiller, and is selling or transferring the spirits to a distiller, small distiller, or out-of-State entity that is the substantial equivalent of a distiller or small distiller.
- The purchasing or receiving distiller or small distiller manufactured spirits at their licensed premises.

A wine maker, small wine maker, distiller, or small distiller may not sell alcoholic liquor purchased or received under the bill unless one of the following conditions is met:

- The purchasing or receiving manufacturer modifies the purchased or received alcoholic liquor by performing a portion of the manufacturing process as described in Senate Bill 1160.
- The purchasing or receiving small wine maker bottles the purchased or received wine.
- The purchasing or receiving wine maker or small wine maker is selling a shiner, on which the wine maker or small wine maker has placed a label on a container using equipment owned or leased by the purchasing wine maker or small wine maker.

The bill does not prevent a manufacturer from selling, purchasing, or receiving nonalcoholic ingredients to or from another manufacturer.

Senate Bills 1156 & 1167

Under Section 113 of the Code, "wine" means the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including fermented fruit juices other than grapes and mixed wine drinks. Under Senate Bill 1156, the term also includes cider made from apples or pears, or both, which contains at least 0.5% of alcohol by volume, or mead or honey wine made from honey.

Also, under Senate Bill 1156, "tasting room" means any of the following locations:

- A location on the manufacturing premises of a brewer or micro brewer where it may provide samples of or sell at retail for on- or off-premises consumption, or both, beer it manufactures.
- A location on or off the manufacturing premises of a wine maker or small wine maker where it may provide samples of or sell at retail for on- or off-premises consumption, or both, shiners, wine it manufactured, or, for a small wine maker only, wine it bottled.
- A location on or off the manufacturing premises of a distiller or small distiller where it may provide samples of or sell at retail for on- or off-premises consumption, or both, spirits it manufactured.
- A location on the manufacturing premises of a mixed spirit drink manufacturer where it may provide samples of or sell at retail for on- or off-premises consumption, or both, mixed spirit drinks it manufactured.
- A location on the manufacturing premises of a brandy manufacturer where it may provide samples of or sell at retail for on- or off-premises consumption, or both, brandy it manufactured.

Section 113a of the Code contains substantially the same provisions as Section 113, and Senate Bill 1167 makes substantially the same changes to Section 113a as Senate Bill 1156 makes to Section 113.

(Public Act 269 of 2005, which amended Section 113 and added Section 113, specifies that if a court holds any provision of Section 113 to be unconstitutional, Section 113 is repealed. Section 113a does not take effect unless Section 113 is held to be unconstitutional or is repealed. In 2005, the United States Supreme Court held that Michigan laws governing direct shipment of alcohol to in-State consumers discriminated against interstate commerce in violation of Article I, Section 8, Clause 3 of the U.S. Constitution. *Granholm v. Heald*, 544 US 460.)

Senate Bill 1159

Multiple Manufacturer Licenses

Under the bill, except for a wine maker or small wine maker authorized to manufacture brandy (see Senate Bill 1165), the MLCC must allow a person to be licensed as more than one type of manufacturer in the State. A person that holds more than one type of manufacturing licenses must meet all applicable provisions of the Code for each type of license the person holds.

Tasting Room Operation

Subject to the requirements of the bill and Section 537, the bill allows the MLCC to approve a licensed manufacturer to operate one or more tasting rooms.

Brewers and micro brewers may not have more approved tasting rooms than allowed in Section 411 (which Senate Bill 1154 amended).

A tasting room may be jointly operated by two or more manufacturers if either of the following conditions is met:

- The manufacturers are owned by the same person and their manufacturing premises share the same address.
- The manufacturers are not owned by the same person and their manufacturing premises do not share the same address.

A tasting room is treated as a licensed premises for purposes of the Code.

On-Premises Tasting Room

Under the bill, an approved tasting room located on the manufacturing premises of one or more manufacturers that are owned by the same person and whose manufacturing premises share the same address must comply with all of the following:

- The MLCC must approve and issue an on-premises tasting room permit to the manufacturer or manufacturers.
- The manufacturer or manufacturers must pay a \$100 initial permit fee, which is renewable annually.
- The manufacturer or manufacturers must be approved for the on-premises tasting room permit by the local legislative body in which the proposed licensed premises will be located, except in a city with a population of 600,000 or more or for tasting rooms in existence before the bill's effective date.
- The manufacturer or manufacturers must comply with the server training requirements of Section 906.

- The manufacturer or manufacturers must file with the MLCC proof of financial responsibility providing security for liability under Section 801(3) of at least \$50,000.
- A separate on-premises tasting room permit is not required for each license type for a person licensed by the MLCC under any combination of brewer, micro brewer, wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer licenses issued to that person at the same manufacturing premises.
- The MLCC may not issue to a manufacturer or manufacturers a Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, or authorization for outdoor service unless the MLCC has issued an on-premises tasting room permit to the manufacturer or manufacturers.

A Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, or authorization for outdoor service may be issued concurrently with the issuance of an on-premises tasting room permit.

(Section 906 defines "server training program" as an educational program whose curriculum has been approved by the MLCC under the standards described in Section 906 and is offered by an administrator or instructor to a retail licensee, or a licensee operating a tasting room or providing samples of alcoholic liquor, for its employees. The Commission must approve a curriculum for a server training program presented by a certified manner considered by the MLCC to be adequate that includes certain topics specified in the Code.)

An on-premises licensee whose license was issued or who was the transferee of more than a 50% interest in an on-premises license on or after the commencement of the mandatory server training program or an on premises licensee determined by the MLCC to be in need of training due to the frequency or types of violations of the Code involving the serving of alcoholic liquor must have employed or present on the licensed premises, at a minimum, supervisory personnel who have successfully completed a server training program on each shift and during all hours in which alcoholic liquor is served.

Under Section 801(3), except as otherwise provided, an individual who suffers damage or who is personally injured by a minor or visibly intoxicated person by reason of the unlawful selling, or furnishing of alcoholic liquor to the minor or visibly intoxicated person, if the unlawful sale is proven to be a proximate cause of the damage, injury, or death, or the spouse, child, parent, or guardian of that individual, has a right of action in his or her name against the person who by selling, or furnishing the alcoholic liquor caused or contributed to the intoxication of the person or who caused or contributed to the damage, injury, or death.)

Additionally, a brewer, micro brewer, wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer may own and operate a restaurant or allow another person to operate a restaurant as part of the on-premises tasting room on the manufacturing premises. If one of those entities allows another person to operate a restaurant on manufacturing premises, it must hold a participation permit naming as a participant the other person. The other person must meet the requirements for a participant in Rule 436.1041(3) of the Michigan Administrative Code, which allows the MLCC to issue a participation permit to a licensee who meets certain qualifications.

Off-Premises Tasting Room

The bill requires an approved tasting room located off the manufacturing premises of one or more manufacturers, other than a brewer, micro brewer, or mixed spirit drink manufacturer, that is owned by the same person and whose manufacturing premises share the same address to comply with all of the following:

- The MLCC must approve and issue an off-premises tasting room permit to the manufacturer or manufacturers.
- The manufacturer or manufacturers must pay a \$100 initial permit fee, which is renewable annually.
- The manufacturer or manufacturers must be approved for the off-premises tasting room permit by the local legislative body in which the proposed licensed premises will be located, except in a city with a population of 600,000 or more or for tasting rooms in existence before the bill's effective date.
- The manufacturer or manufacturers must comply with the server training requirements of Section 906 at the off-premises tasting room.
- The manufacturer or manufacturers must file with the MLCC proof of financial responsibility providing security for liability under Section 801(3) of at least \$50,000 for the off-premises tasting room.
- A separate off-premises tasting room permit is not required for each license type for a person licensed by the MLCC under any combination of brewer, micro brewer, wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer licenses issued to that person at the same manufacturing premises.
- The MLCC may not issue to a manufacturer or manufacturers a Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, or authorization for outdoor service unless the MLCC has issued an off-premises tasting room permit to the manufacturer or manufacturers.

A Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, or authorization for outdoor service may be issued concurrently with the issuance of an off-premises tasting room permit.

Joint Off-Premises Tasting Room

Under the bill, an approved jointly operated tasting room located off the manufacturing premises of two or more manufacturers, other than a brewer, micro brewer, or mixed spirit drink manufacturer, that is not owned by the same person and whose manufacturing premises do not share the same address must comply with all of the following:

- The MLCC must approve and issue a joint off-premises tasting room permit to each of the manufacturers.
- Each manufacturer must pay a \$100 initial license fee, which is renewable annually.
- Each manufacturer must be approved for a joint off-premises tasting room license by the local legislative body in which the proposed licensed premises will be located, except in a city with a population of 600,000 or more or for tasting rooms in existence before the bill's effective date.
- Each manufacturer must comply with the server training requirements of Section 906 at the jointly-operated off-premises tasting room.
- Each manufacturer must file with the MLCC proof of financial responsibility providing security for liability under Section 801(3) of at least \$50,000 for the jointly-operated off-premises tasting room.
- Any management agreements with an unlicensed manager of the jointly operated off-premises tasting room must comply with the requirements of Rule 436.1041, and all the manufacturers must hold a participation permit naming as a participant the unlicensed manager, who must meet the requirements for a participant in Rule 436.1041(3).
- A Sunday sales permit, catering permit, dance permit, entertainment permit, specific purpose permit, extended hours permit, or authorization for outdoor service may be issued concurrently with the issuance of an off-premises tasting room permit.

All manufacturers licensed at a jointly operated off-premises tasting room location must hold the same permits, permissions, and authorizations at the location.

(Rule 436.1041 generally prohibits a licensee or an applicant for a licensee from obtaining or attempting to obtain a license for the use or benefit of another person whose name does not appear on the license, and allows the MLCC to issue a participant permit to a licensee who meets certain qualifications.)

A violation of the Liquor Control Code or the Administrative Rules by any manufacturer on the premises of a jointly operated off-premises tasting room is a violation by all the manufacturers listed at the tasting room.

Off-Premises Tasting Room Compliance

The bill requires approved off-premises tasting rooms or jointly operated off-premises tasting rooms to comply with all of the following:

- Notwithstanding the limitations described below, a wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may have any number of off-premises tasting room licenses or joint off-premises tasting rooms licenses where alcoholic liquor manufactured by those entities may be sold or given away only as sample for on-premises consumption.
- All wine maker, small wine maker, distiller, small distiller, or brandy manufacturers licensed at the same approved jointly operated off-premises tasting room must have an identical designation.
- A wine maker, small wine maker, distiller, small distiller, or brandy manufacturer that has an off-premises tasting room or joint-operated off-premises tasting room location that was approved by the MLCC before the bill's effective date must submit to the Commission in writing a designation of whether the tasting room will sell by glass for consumption or provide only samples.
- A wine maker, small wine maker, distiller, small distiller, or brandy manufacturer must designate at the time of application whether the tasting room location for which the off-premises tasting room license or the joint off-premises tasting room license application is being made will sell by the glass for consumption, or provide only samples.

The designation for off-premises tasting room license or the joint off-premises tasting room license may not be changed after the license has been issued.

Additionally, a wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may have one of the following:

- No more than five off-premises tasting room licenses where alcoholic liquor manufactured by the wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may be sold by the glass for on-premises consumption, or samples may be sold or given away for on-premises consumption.
- No more than five joint off-premises tasting room licenses where alcoholic liquor manufactured by the wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may be sold by the glass for on-premises consumption, or samples may be sold or given away for on-premises consumption.
- A combination of no more than five off-premises tasting room licenses and joint off-premises tasting room licenses liquor manufactured by the wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may be sold by the glass for on-premises consumption, or samples may be sold or given away for on-premises consumption.

- No more than the equivalent number of off-premises tasting room licenses, joint off-premises tasting room licenses, or a combination of off-premises and joint off-premises tasting room licenses that were issued before October 1, 2018, where alcoholic liquor manufactured by the wine maker, small wine maker, distiller, small distiller, or brandy manufacturer may be sold by the glass for on-premises consumption or samples may be sold or given away for off-premises consumption.

Manufacturers

A manufacturer is not a retailer under the Code merely because it has a tasting room.

A manufacturer with an approved tasting room may sample and sell alcoholic liquor only as specifically allowed in the Act.

A manufacturer may do all of the following:

- Sell alcoholic liquor it manufactures for off-premises consumption in an approved tasting room.
- Sell alcoholic liquor it manufactures by the glass for on-premises consumption in an approved tasting room.
- Sell or give away samples of any size of alcoholic liquor it manufactures for on-premises consumption in an approved tasting room.

A manufacturer may sell or give away samples of alcoholic liquor it manufactured for on-premises consumption in an approved tasting room under all of the following conditions:

- A wine maker or small wine maker may offer samples of wine that do not exceed three ounces per sample.
- A brandy manufacturer may offer samples of brandy that do not exceed one-half ounce per sample.
- A distiller or small distiller may offer samples or spirits or mixed spirits that do not exceed one-half ounce per sample.

A manufacturer issued a license before the bill's effective date that intends to sell for off-premises consumption, or sell, serve, and allow on-premises consumption of alcoholic liquor as allowed under the bill and Section 537 must comply with the bill by April 1, 2019.

Mixing Ingredients

A wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer may add a nonalcoholic mixing ingredient or an alcoholic mixing ingredient manufactured by the wine maker, small wine maker, distiller, small distiller, brandy manufacturer, or mixed spirit drink manufacturer to sampled or purchased alcoholic liquor if the sampled alcoholic liquor is consumed on the premises of the approved tasting room.

Other Provisions

The revenue received from initial permit fees must be deposited into the Liquor Control Enforcement and License Investigation Revolving Fund.

Local approval is not required for tasting rooms that are in existence before the bill's effective date.

Senate Bill 1160

Previously, the Code defined "manufacturer" as a person engaged in the manufacture of alcoholic liquor, including a distiller, a rectifier, a wine maker, and a brewer. Instead, under the bill, the term means a person that manufactures alcoholic liquor, whether located in or out of the State, including a distiller, a small distiller, a rectifier, a mixed spirit drink manufacturer, a mixed wine drink manufacturer, a wine maker, a small wine maker, a brewer, and a micro brewer.

"Manufacture" means to distill, rectify, ferment, brew, make, produce, filter, mix, concoct, process, or blend an alcoholic liquor or to complete a portion of one or more of those activities. The term does not include bottling or mixing or other preparation of drinks for serving by those persons authorized by the Code to serve alcoholic liquor for consumption on the licensed premises. The term also does not include attaching a label to a shiner. All containers or packages of alcoholic liquor must state clearly the name, city, and state of the bottler.

"Manufacturing premises" means the licensed premises of a manufacturer where the manufacturer manufactures alcoholic liquor or, for a small wine maker only, bottles wine.

Senate Bill 1161

The Code requires the MLCC, upon application in a manner acceptable to the MLCC and payment of the appropriate license fee, to issue a small distiller license to a person annually manufacturing in the State spirits in an amount not exceeding 60,000 gallons, of all brands combined.

Previously, the Code allowed a small distiller to sell at retail from its licensed premises only either or both of the following:

- Brands it manufactured on the licensed premises for off-premises consumption, at a price posted by the MLCC under Section 233.
- Brands it manufactured on the licensed premises for on-premises consumption.

A small distiller also could give samplings or tastings of brands it manufactures on the licensed premises, and had to comply with the server training requirements of Section 906.

The bill deleted the provisions pertaining to what a small distiller could do on its licensed premises, and the server training requirements. Instead, a small distiller may have an approved tasting room and sell alcoholic liquor at retail, and allow tasting in a tasting room.

Senate Bill 1164

Vendors, Sale of Alcoholic Liquor

Under Section 537 of the Code, various classes of vendors may sell alcoholic liquor at retail. Previously, these included, among others, the following:

- Micro brewers and brewers, where beer produced by the micro brewer or brewer could be sold to a consumer for on- or off-premises consumption.
- Wine maker, where wine could be sold by direct shipment, at retail on the licensed premises, and as provided below.
- Small distiller selling not more than 60,000 gallons of spirits manufactured by that licensee to a consumer at retail for on- or off-premises consumption in the manner provided for in Section 534.

- A small wine maker or an out-of-state entity that was the substantially equivalent of a small wine maker, that holds a farmer's market permit, where wine could be sampled and sold at a farmer's market for off-premises consumption.

The bill, instead, refers to the following:

- Micro brewers and brewers, where beer manufactured by the micro brewer or brewer may be sold in an approved tasting room under Section 536 to a consumer for on- or off-premises consumption.
- Wine maker or small wine maker, where wine manufactured or bottled by the wine maker or small wine maker, or shiners, may be sold by direct shipment as provided in Section 203, at retail for on- or off-premises consumption in an approved tasting room, or as otherwise provided in the Code.
- Distiller or small distiller, where spirits manufactured by the distiller or small distiller may be sold to a consumer at retail for on- or off-premises consumption in an approved tasting room.
- A small wine maker or an out-of-state entity that is the substantially equivalent of a small wine maker, that holds a farmer's market permit, where wine manufactured or bottled by the small wine maker and shiners as that term is defined in Senate Bill 1166 may be sampled and sold at a farmers' market for off-premises consumption.

Under the bill, the following classes of vendors also may sell alcoholic liquor at retail:

- A brandy manufacturer where brandy manufactured by the brandy manufacturer may be sold at retail for on- or off-premises consumption in an approved tasting room located on the brandy manufacturer's manufacturing premises.
- A mixed spirit drink manufacturer where mixed spirit drink manufactured by the mixed spirit drink manufacturer may be sold at retail for on- or off-premises consumption in an approved tasting room.

Wine Tastings

Previously, the Code allowed a wine maker to sell wine made by that wine maker in a restaurant for on- or off-premises consumption if the restaurant was owned by the wine maker or operated by another person under an agreement approved by the MLCC and located on the premises where the wine maker was licensed.

A wine maker, with the MLCC's prior written approval, could conduct wine tastings of wines made by that wine maker on the premises where the wine maker was licensed to manufacture wines, and could sell the wine for off-premises consumption at a location other than the premises where the wine maker was licensed to manufacture wine, under certain conditions.

The bill deletes these provisions.

Brandy, Spirits Tastings

Previously, under the Code, a brandy manufacturer or small distiller, with the MLCC's prior written approval, could conduct tastings of brandy and spirits made by that brandy manufacturer or small distiller and could sell the brandy and spirits for off-premises consumption at a location other than the licensed premises where the brandy manufacturer or small distiller was licensed to manufacture brandy or spirits under certain conditions.

The bill deletes this provision.

Senate Bill 1165

Section 105 of the Code defines "brand" as 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 drink product that is produced or marketed by that or another supplier.

"Brand extension" means any brand that incorporates all or a substantial part of the unique features of a preexisting brand of the same supplier.

As used in Section 105, "supplier" means a brewer; a wine maker; a small wine maker, a mixed wine drink manufacturer; a mixed spirit drink manufacturer; or an outstate seller of wine, beer, mixed wine drink, or mixed spirit drink. Under the bill, the term also includes a micro brewer.

Previously, the Code defined "brandy manufacturer" as a wine maker or a small wine maker licensed under the Code to manufacture, rectify, or blend brandy only and no other spirit. The Commission could approve a brandy manufacturer to sell brandy that it manufactured, blended or rectified, or both, at its licensed premises or at other premises authorized in the Code.

Under the bill, the term means a wine maker or a small wine maker licensed under the Code to manufacture brandy. A wine maker or small wine maker authorized to manufacture brandy may not manufacture any other spirits. The Commission may approve a brandy manufacturer to sell brandy that it manufactures at retail in accordance with Section 537.

The bill defines "alternating proprietorship" as one of the following:

- An arrangement in which two or more wine makers or small wine makers take turns using the same space and equipment to manufacture wine pursuant to Section 603(9)(a) and in accordance with 27 CFR 24.136.
- An arrangement in which two or more brewers or micro brewers take turns using the same space and equipment to manufacture beer pursuant to Section 603(9)(b) and in accordance with 27 CFR 25.52.

(Section 603(9)(a) allows the MLCC to approve a wine maker participating in one or more wine makers in an alternating proprietor operation in accordance with 27 CFR 24.136, which generally allows wine premises to be operated alternatively by proprietors who have each filed and received approval of the necessary applications and bonds, requires all wine, spirits, and accountable materials to be removed from the alternated premises or transferred to the incoming proprietor, requires an outgoing proprietor to execute a consent of surety to continue in effect all bonds, and requires each proprietor to maintain separate records of certain information.

Section 603(9)(b) allows the MLCC to approve a wine maker participating in one or more brewers in alternating proprietor operation in accordance with 27 CFR 25.52, which generally allows an officer of employee of the Alcohol and Tobacco Tax and Trade Bureau to approve an alternate method or procedure of a brewer operation.)

Under the bill, "bottle" or "bottling" means a process, separate from manufacturing, using owned or leased equipment to fill and seal a container, including a keg, with alcoholic liquor for sale at wholesale or retail in accordance with the Code. The term does not include filling a growler for sale at retail.

Senate Bill 1166

The Code defines "small wine maker" as a wine maker manufacturing or bottling not more than 50,000 gallons of wine in one calendar year. Under the bill, a small wine maker is not required to bottle wine it manufactures.

Under the Code, "sale" includes the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor. The bill includes in the term the delivery of alcoholic liquor.

The bill defines "restaurant" as a food service establishment defined and licensed under the Food Law. A restaurant that does not hold a license issued by the MLCC may not manufacture, market, deliver, or sell alcoholic liquor in the State.

"Shiner" means an unlabeled, sealed container of wine, including a keg, that is sold by a wine maker, small wine maker, or out-of-State entity that is the substantial equivalent of a wine maker or small wine maker to another wine maker, small wine maker, or out-of-State entity that is the substantial equivalent of a wine maker or small wine maker. The purchasing wine maker or small wine maker must attach a label to the container using equipment owned or leased by the purchasing wine maker or small wine maker, register the wine label with the MLCC, and sell it as provided for in the Code.

MCL 436.1517a (S.B. 1094)
MCL 436.1411 (S.B. 1154)
Proposed MCL 436.1204a (S.B. 1155)
MCL 436.1113 (S.B. 1156)
MCL 436.1307 (S.B. 1157)
MCL 436.1603 (S.B. 1158)
Proposed MCL 436.1536 (S.B. 1159)
MCL 436.1109 (S.B. 1160)
MCL 436.1534 (S.B. 1161)
MCL 436.1517a (S.B. 1162)
MCL 436.1517 (S.B. 1163)
MCL 436.1537 (S.B. 1164)
MCL 436.1105 (S.B. 1165)
MCL 436.1111 (S.B. 1166)
MCL 436.1113a (S.B. 1167)
MCL 436.1607 (S.B. 1168)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bills 1094, 1154-1158, 1160-1163 & 1165-1168

The bills will have no fiscal impact on State or local government.

Senate Bill 1159

The bill will have a neutral impact on the Department of Licensing and Regulatory Affairs and no fiscal impact on local government units.

The Michigan Liquor Control Commission expects no significant increase in revenues due to the tasting room permit provisions. Manufacturers currently pay a \$100 permit fee. The Department does not expect a meaningful increase in the number of tasting room permits issued. Current appropriations likely are sufficient to cover the regulatory costs associated with the bill.

Senate Bill 1164

The bill will have a neutral impact on the Department of Licensing and Regulatory Affairs and an indeterminate, but likely negligible, impact on other State funds. The bill will have no fiscal impact on local government units.

The Michigan Liquor Control Commission expects no significant increase in revenues due to the tasting room permit provisions. Manufacturers currently pay a \$100 permit fee. The Department does not expect a meaningful increase in the number of tasting room permits issued. Current appropriations likely are sufficient to cover the regulatory costs associated with the bill.

To the extent that the clarification of rules regarding tasting rooms encouraged increases sales of alcoholic beverages at these locations, the bill will result in a positive, but negligible, increase in liquor tax revenue, to be deposited as follows: 4.0% to the School Aid Fund, 4.0% to the Convention Facility Development Fund, and 4.0% to the General Fund.

Fiscal Analyst: Abbey Frazier
Elizabeth Raczkowski

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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.