

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 527 (as enrolled)

Sponsor: Senator Shirley Johnson

Senate Committee: Economic Development, International Trade and Regulatory Affairs

House Committee: Regulatory Reform

PUBLIC ACT 274 of 2001

Date Completed: 3-28-02

CONTENT**The bill amended the Michigan Liquor Control Code to do the following:**

- Require the Liquor Control Commission to provide for an integrated on-line ordering system for retailers to order spirits from authorized distribution agents (ADAs).**
- Allow the Commission to order a modified delivery schedule that does not require retailers to wait more than nine days for a delivery.**
- Rewrite provisions prohibiting an ADA that becomes a licensed wholesaler from selling a brand of wine outside its territory, and prohibiting a wholesaler that becomes an ADA from selling a brand to a retailer in an area for which another wholesaler is assigned.**

On-Line Ordering System

The bill requires the Liquor Control Commission, by July 1, 2003, to provide for an integrated on-line ordering system for retail liquor licensees to place orders for spirits from authorized distribution agents. The system must allow retail licensees to order all brands and types of spirits from the Commission and provide the order to the appropriate ADAs. (An "authorized distribution agent" is a person approved by the Commission to deliver spirits sold by the Commission to retail licensees; to store spirits owned by a supplier of spirits or the Commission; or to perform any function needed to engage in either of the first two activities.)

The bill permits the Commission to enter into any agreements or contracts with private or other public entities, as provided for or

allowed by law, to establish the integrated on-line ordering system. A licensee of the Commission or an ADA may not have a direct or indirect interest in the person with whom the Commission contracts or enters into an agreement to establish the system. The bill specifies that ownership of the system remains with the Commission.

The bill also permits the Commission, through issuance of an order, to allow banner advertising in conjunction with the on-line ordering system as a means of defraying the costs of operating and/or maintaining the system.

The Code requires ADAs to provide retailers access to a computer application that includes the capability to determine whether certain spirits are currently available for delivery. Under the bill, this requirement applies until the integrated on-line ordering system is activated. Beginning on the date the system is established, the Commission must provide for an integrated on-line ordering system for spirits as well as require any ordering system that existed on the bill's effective date to continue.

Delivery Schedule

The Code requires that an authorized distribution agent deliver to each retailer located in its assigned distribution area on at least a weekly basis, if the order meets minimum requirements. Under the bill, except in weeks accompanying a State holiday, the Commission may order a modified delivery schedule, providing that a retailer does not wait more than nine days between deliveries due to the modified schedule.

Wine Territories

The bill specifies that, after September 24, 1996, an ADA or an applicant to become an ADA that directly or indirectly becomes licensed subsequently as a wholesaler may not be appointed to sell a brand of wine in a county or part of a county for which a wholesaler has been appointed to sell that brand under an agreement required by the Code. A wholesaler that directly or indirectly becomes an ADA may not sell or be appointed to sell a brand of wine to a retailer in a county or part of a county for which another wholesaler has been appointed to sell that brand under an agreement required by the Code, unless that wholesaler was appointed to sell and was actively selling that brand to retailers in that county or part of that county before September 24, 1996, or unless the sale and appointment are the result of an acquisition, purchase, or merger with the existing wholesaler who was selling that brand to a retailer in that county or part of that county before September 24, 1996.

(The Code had contained generally the same provisions, but did not require a wholesaler to be actively selling a brand before the 1996 date, and did not make the exception for an acquisition, purchase, or merger with an existing wholesaler before that date. The previous language also had referred to someone who was "appointed or authorized" to "sell or distribute" a brand of wine in an "area".)

MCL 436.1205 & 436.1206

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The cost of the new on-line ordering system, which is unknown at this time, will be covered with Liquor Purchase Revolving Fund revenue. As the balance of this Fund is deposited into the General Fund, any additional expenditures will reduce the amount deposited at the end of the year. The Liquor Control Commission may defray the cost of the system, however, by allowing banner advertising in conjunction with the on-line ordering system.

Fiscal Analyst: Elizabeth Pratt

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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.