

# Legislative Analysis



## **SALE OF LIQUOR LICENSE: NOTIFICATION OF POTENTIAL TAX LIABILITY**

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**House Bill 6449 (Substitute H-3)**  
**Sponsor: Rep. Jerry O. Kooiman**  
**Committee: Regulatory Reform**

**Complete to 11-29-06**

### **A SUMMARY OF HOUSE BILL 6449 AS REPORTED FROM COMMITTEE 11-28-06**

Under the liquor code, a liquor licensee is allowed to sell his or her business (including the liquor license) or, if the business closed, just his or her liquor license.

The bill would amend the Michigan Liquor Control Code to require the Liquor Control Commission (LCC) to provide a notification on the license application of the ability of the purchaser or transferee to obtain a tax clearance certificate. The application for initial licensure or for a transfer of a license would have to contain a notice in substantial compliance with the following:

*When purchasing a license, a buyer can be held liable for tax debts incurred by the previous owner. Prior to committing to the purchase of any license or establishment, the buyer should request a tax clearance certificate from the seller that indicates that all taxes have been paid up to the date of issuance. Obtaining sound professional assistance from an attorney or accountant can be helpful to identify and avoid any pitfalls and hidden liabilities when buying even a portion of a business.*

*Sellers can make a request for the tax clearance certificate through the Michigan Department of Treasury.*

MCL 436.1501

### **FISCAL IMPACT:**

The notification of tax clearance certificate availability may slightly increase expenditures for the Liquor Control Commission, but it is unlikely additional staff will be needed. Similarly, the requirement that the Department of Treasury provide tax clearance certificates to sellers may slightly increase the Department's expenditures, but can likely be accomplished without adding staff.

### **BACKGROUND INFORMATION:**

When a person buys a liquor license, he or she may be unaware that the purchaser is responsible for any tax liabilities attached to that license. A small business owner from Grand Rapids testified before the committee that several months after purchasing a

building and an escrowed liquor license to open a small restaurant, she received a letter from the state Department of Treasury trying to collect back taxes in the tens of thousands still owed on the liquor license. The unpaid taxes were from unpaid sales tax, single business tax (SBT), and penalties and interest. Though she had consulted an attorney about any tax liabilities connected to the purchase of the building, she did not know that a liquor license could also have tax liabilities attached to it, or that it was possible to obtain a document certifying that the license was clear of any back taxes. The bill would address the issue by requiring the Liquor Control Commission to include a notification on the application to purchase or transfer a liquor license of the ability to obtain a tax clearance certificate.

## **POSITIONS:**

The Department of Treasury supports the bill. (11-28-06)

The Michigan Liquor Control Commission supports the bill. (11-28-06)

The Art of the Table in Grand Rapids supports the bill. (11-28-06)

The Michigan Restaurant Association indicated neutrality on the bill. (11-28-06)

The Michigan Licensed Beverage Association indicated neutrality on the bill. (11-28-06)

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