Legislative Analysis

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BREWERS, MICROBREWERS & BREWPUBS

House Bill 4709 (as reported w/o amendment)
Sponsor: Rep. Kevin Cotter

House Bill 4710 (as reported w/o amendment)
Sponsor: Rep. Peter MacGregor

House Bill 4711 (Substitute H-1 as reported)
Sponsor: Rep. Andy Schor

Committee: Regulatory Reform
Complete to 11-13-13

A SUMMARY OF HOUSE BILLS 4709 - 4711 AS REPORTED FROM COMMITTEE

Taken together, the bills would amend the Liquor Control Code to (1) increase the number of barrels of beer a microbrewer could produce in a year, (2) allow brewpubs to have an interest in up to five other brewpubs, and (3) allow brewers to sell the beer they make for on-premises consumption at multiple licensed brewery premises.

House Bill 4709
The bill would amend the definition of "microbrewer" to increase the amount of beer such a business could be brew and still be considered a microbrewer from 30,000 to 60,000 barrels per year. (MCL 436.1109)

House Bill 4710
The bill would allow a brewpub to have an interest in up to five other brewpubs as long as the combined production of all the locations in which the brewpub has an interest does not exceed 18,000 barrels of beer in a calendar year. Under current law, brewpubs are limited to an interest in up to two other brewpubs if the combined production does not exceed 5,000 barrels of beer per calendar year. (MCL 436.4603)

House Bill 4711
The bill would allow a brewer to sell its beer for on-premises consumption at up to two locations that are on any of its licensed brewery premises where the brewer is engaged in the production of beer (defined in the bill to mean the full and complete brewing process, not just a portion of the brewing process). Currently, a brewer can only sell its beer for on-premises consumption at one location. (MCL 436.1411)

FISCAL IMPACT:

House Bills 4709-4711 would have an indeterminate fiscal impact on the Michigan Liquor Control Commission (LCC) and state excise tax collections depending on how the changes to production restrictions and consumption regulations affect the demand for brewer, microbrewer, and brewpub licenses and the supply of Michigan-produced beer.

As of June 12, 2013, there were two brewer licenses (both belonging to Bell's Brewery, Inc.), 92 microbrewer licenses, and 54 brewpub licenses active in the state.

Brewer and microbrewer licensure fees are $50 per year if less than 15,000 barrels were produced during preceding year, or $50 per 1,000 barrels produced annually if more than 15,000 barrels were produced during preceding year, up to maximum of $1,000. The brewpub licensure fee is $100 per year, in addition to applicable liquor license fees. During FY 2011-12, licensure fees from Michigan brewers, micro-brewers, and brewpubs generated revenue in the tens of thousands.

Excise tax on beer manufactured and sold for consumption in Michigan is levied at a rate of $6.30 per barrel and deposited into the General Fund. However, beer consumed on a brewer's premises is not taxed, excluding micro-brewers and brewpubs. Brewers, micro-brewers, and brewpubs that produce not more than 50,000 barrels during the tax year may claim a $2.00 per barrel tax credit for the first 30,000 barrels produced. During FY 2011-12, the LCC collected approximately $1.54 million in excise taxes from Michigan brewers, micro-brewers, and brewpubs.

POSITIONS:

Michigan Beer and Wine Wholesalers Association supports all of the bills. (10-29-13)

Michigan Brewers Guild supports all of the bills. (9-10-13)

Michigan Restaurant Association supports all of the bills. (9-10-13)

Michigan Liquor Control Commission is neutral on all the bills. (10-29-13)

Associated Food and Petroleum Dealers is neutral on all of the bills. (9-10-13)

Michigan Licensed Beverage Association is neutral on House Bills 4709 & 4710. (9-10-13)

Michigan Alcohol Policy Promoting Health and Safety is neutral on all of the bills. (9-10-13)

Bell's Brewery opposes all of the bills. (9-10-13)

BACKGROUND INFORMATION AND DISCUSSION:

According to testimony, the aim of the bills is to make changes to the Liquor Control Code to accommodate expansion of the state's craft brewing industry. The original production caps and benefits afforded to craft brewers were intended to protect the industry from competition from large brewers (for example, MillerCoors and Anheuser-Busch). As the industry has grown, brewers, brewpubs, and microbrewers are getting close to reaching the production caps and other statutory limits. Increasing production caps and allowing brewpubs and breweries to expand to more locations will allow the industry to continue growing without changing the concepts of the individual licenses. Additionally, some expressed concern that the production caps in current law had been set arbitrarily and should be increased to accommodate the expansion of the industry.

At the same time, concern was expressed that that changing the regulatory framework for craft brewers at this stage in the industry's evolution is unfair to businesses that have been working under the current regulatory requirements and have made business decisions accordingly. Until now, a licensee nearing a production cap had to make a decision regarding future production, including whether to limit future growth and whether to divest parts of the operation. Changes to accommodate the expansion of certain operations are seen as unfair. Additionally, there was concern that existing Class C licenses could be converted to brewpubs under House Bill 4710 and that such a change could limit the choices available to consumers.

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