

REDUCE STATE GROSS PROFIT ON SPIRITS FOR FIRST 60,000 GALLONS PRODUCED

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Senate Bill 448 (passed by Senate as Substitute S-1)
Sponsor: Sen. John Proos
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform
Complete to 11-9-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Generally speaking, the bill would lower the state's gross profit on a bottle of spirits, if the product was among the first 60,000 gallons of spirits produced by a distiller in a calendar year. The state gross profit (the "markup") would be reduced to no more than 20%.

(The term "Spirits" refers to distilled products such as whiskey, vodka, and gin, as well as certain other products with high alcohol content.)

Section 233 of the Michigan Liquor Control Code establishes the minimum gross profit to the commission at not less than 51% and not more than 65%. (The current markup is 65%, according to the Liquor Control Commission.)

Senate Bill 448 would amend Section 233 so that the current minimum gross profit would apply to a bottle of spirits only after a distiller had produced more than 60,000 gallons of product in a calendar year. The minimum gross profit to the LCC could be no more than 20% for each bottle of spirits manufactured under the 60,000-gallon threshold. (The bill refers to this as the "threshold production amount.")

(The term, "Distiller" means any person licensed to manufacture and sell spirits or alcohol, or both, of any kind. A "Small Distiller" is defined in the Code as a manufacturer of spirits annually manufacturing in Michigan not more than 60,000 gallons of spirits, of all brands combined.)

This amendment would apply beginning January 1, 2017.

FISCAL IMPACT:

Given the language of the bill, it is not possible to produce a reliable fiscal impact of the anticipated revenue reduction for a variety of reasons. Because the wholesale cost of liquor varies widely and the distribution of more expensive to less expensive products is not known, the impact of a lower markup cannot be estimated. Further, the bill stipulates that the reduced markup applies to the first 60,000 gallons produced by a distiller, but does not specify whether those gallons are sold in Michigan or elsewhere. Therefore, it would be incumbent on an out-of-state distiller to monitor which of its first 60,000 gallons are actually sold in Michigan so that the proper markup can be applied.

Finally, to the extent that the lower markup is applied, this does not guarantee that the retail price of a gallon with a 20% markup will necessarily be any different than a gallon subject to the 65% markup since retailers could simply leave the retail price unchanged and capture the differential as additional profit.

BACKGROUND:

The following information on the Michigan Spirit Distribution System is derived from the Liquor Control Commission website:

Michigan operates as a "control" state for the sale of spirits. The Commission acts as the wholesaler for all spirit products. A Vendor of Spirits sells spirits to the Commission. The Commission then resells the spirits to both on and off-premises retail licensees. Spirit products are warehoused and delivered to retail licensees by Authorized Distribution Agents ("ADA"). An ADA is required to be certified by the Commission and is also required to have a contract with each Vendor of Spirits they represent to deliver their particular spirit products. Spirit products that are sold to consumers for off-premise consumption by licensed Specially Designated Distributors ("SDD") are sold statewide at uniform prices set by the Commission. The uniform price set by the Commission is determined by the cost of the spirit product to the Commission plus a 65% mark-up, plus a combination of specific taxes.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.