

LIQUOR CODE AMENDMENTS

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Senate Bill 667 (S-2, as passed by the Senate)

Sponsor: Sen. Jim Stamas

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Complete to 3-1-16

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

(Enacted as Public Act 81 of 2016)

SUMMARY:

Senate Bill 667 would make a number of amendments to the Michigan Liquor Control Code, including adding items of the list of permitted advertising items that one licensee may provide to another; specifying the conditions under which brand logoed merchandise may be provided to on- and off-premises licenses; and adding new sections related to beer prices and price reductions and sales call recordkeeping requirements.

Section 609 of the Code lists certain branded items that one licensee may provide to another. The bill would add suction cups, cooler door attachments, and tear pad holders.

The bill would also allow a manufacturer, outstate seller, or vendor of spirits to provide brand logoed merchandise to an on- or off-premises retailer to promote the brand and price of its products if all of the following are complied with:

- It is used for display purposes only.
- It only provides brand advertising when used in a display.
- It is returned to the alcoholic beverage supplier or wholesaler on completion of the display.
- It is not given to the retail licensee or the retail licensee's staff or any other person for their personal use.
- The value of the brand logoed merchandise on display does not exceed \$200 per item.
- Brand logoed merchandise that a licensee could use in the daily operation of the licensee's business is prohibited.
- It is unilluminated.
- It is not be more than 3,500 square inches in dimension.
- It is owned by the manufacturer or supplier. The ownership of brand logoed merchandise may not be transferred to the retail licensee, the retail licensee's employee, or any other person.
- A wholesaler may deliver and install a display using brand logoed merchandise provided without charge by a manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed drink.

Senate Bill 667 also would add two new sections, 609a and 609b, which are described below.

Beer Prices and Reductions

Section 609a would require a manufacturer or wholesaler to file a schedule of net cash prices to the retail licensee for all brands of case and keg beer for its market area with the Liquor Control Commission (LCC).

A manufacturer or wholesaler also would be required to file with the LCC a beer package price reduction for its market area. The filing must occur at least 90 days before the price reduction's effective date and must continue for at least 90 days after that effective date. A beer package price for a market area may be increased during the 90-day period to reflect a tax increase in the market area or to reflect a general industry price increase in the market area. A price decrease may take place during the 90-day period if the price reduction is not greater on a cents-per-case basis than the price reduction filed by the competition and the reduction continues for the balance of the 90 days filed by the competition.

A manufacturer or wholesaler also would be prohibited from selling beer at a quantity discount, and the commission would be required to "periodically compare" a manufacturer's or wholesaler's filing with the manufacturer's or wholesaler's tax filing under Section 409.

A net cash price and a price reduction would be exempt from disclosure under Section 13 of the Freedom of Information Act until one year after the net cash price or price reduction is filed, as applicable.

Lastly, Section 609a would contain a provision justifying the regulation described in the section as being necessary for both of the following reasons:

- To promote temperance and the public health and welfare.
- To promote a stable three-tier distribution system with orderly markets for wine and malt beverage products in which there is no price discrimination by a wholesaler in its sales to retailers within the wholesaler's sales territory.

Records of Sales Call Expenditures/Salesperson Purchase of Drinks for Customers

Section 609b would require a vendor representative and salesperson of a vendor of spirits, manufacturer of beer, manufacturer of wine, outstate seller of beer, outstate seller of wine, or wholesaler to maintain accurate records of expenditures for each call on a retail licensee. These records must be maintained for four years and be made available for commission inspection.

This new section would also allow a vendor representative or salesperson of spirits or wine, for promotional purposes, to purchase one drink for each customer of an on-premises licensee. Such a drink purchased must be of the brand represented by the vendor representative or salesperson, and that vendor or salesperson would be subject to a total spending limit of \$100 per day. A vendor representative or salesperson of a manufacturer of beer, a wholesaler of beer, or an outstate seller of beer would be prohibited from doing such a drink purchase more than twice per month at the same on-premises retail licensed location. Lastly, the section would prohibit a licensee employed to deliver alcoholic liquor

from purchasing a drink of alcoholic liquor for a retail licensee while on duty or in the course of employment.

FISCAL IMPACT:

The bill would have no fiscal impact.

Legislative Analyst: Josh Roesner
Fiscal Analyst: Paul B.A. Holland

■ 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.