

DIRECT SHIPMENT OF WINE TO MICHIGAN CONSUMERS

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<http://www.house.mi.gov/hfa>

House Bill 4125 as introduced
Sponsor: Rep. Ken Yonker
Committee: Regulatory Reform
Complete to 3-8-16

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

SUMMARY:

House Bill 4125 would amend Section 203 of the Michigan Liquor Control Code by allowing a retailer, or an out-of-state retailer who holds that state's substantially equivalent license, to sell, deliver, or import wine to consumers in Michigan via mail order, internet, telephone, computer device, or other electronic means.

The bill would make other complementary amendments that require those engaging in the newly allowable form of wine ordering to adhere to the other, existing requirements that apply to those ordering from a direct shipper.

Under the bill, a retailer or an out-of-state retailer that holds its state's substantial equivalent license that sells, delivers, or imports wine to a consumer in Michigan would be required to comply with all of the following:

- Pay any applicable taxes to the Liquor Control Commission (LCC) and pay any applicable taxes to the Department of Treasury. On the request of Treasury, a retailer or an out-of-state retailer that holds its state's substantial equivalent license must furnish an affidavit to verify payment.
- Comply with all prohibitions of the laws of this state, including, but not limited to, sales to minors.
- Verify the age of the individual placing the order by obtaining from an affirmation that he or she is at least 21 years of age. The person receiving and accepting the order on behalf of the retailer or the out-of-state retailer that holds its state's substantial equivalent license shall record the name, address, date of birth, and telephone number of the individual placing the order on the order form or other verifiable record of a type and generated in a manner approved by the LCC and provide a duplicate to the commission.
- On request of the commission, make available any document used to verify the age of the individual ordering or receiving the wine from the retailer or out-of-state retailer that holds its state's substantial equivalent license.
- Stamp, print, or label on the outside of the shipping container that the package "Contains Alcohol. Must be delivered to a person 21 years of age or older." The recipient at the time of the delivery would have to provide identification verifying his or her age and sign for the delivery.
- Place a label on the top panel of the shipping container containing the name and address of the individual placing the order and the name of the designated recipient if different from the name of the individual placing the order.

Presently, a consumer can place an order for wine from a direct shipper, which is "a person who sells, delivers, or imports wine, to consumers in this state, that he or she produces and bottles, or wine that is manufactured by a wine maker for another wine maker and that is transacted or caused to be transacted through the use of any mail order, internet, telephone, computer, device, or other electronic means, or sells directly to consumers on the winery premises."

A "consumer" is defined as "an individual who purchases wine for personal consumption and not for resale."

A "retailer" is defined in the code as "a person licensed by the commission who sells to the consumer in accordance with rules promulgated by the commission. Retailer includes a brewpub but does not include a manufacturer or supplier, as defined in Section 603 that is allowed as a condition of its license to sell to consumers in this state."

Section 603 defines a manufacturer as "a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, distiller, small distiller, brandy manufacturer, mixed spirit drink manufacturer, direct shipper, or a person licensed by the commission to perform substantially similar functions."

A supplier is defined as " a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits or a person licensed by the commission to perform substantially similar functions but does not include a master distributor."

FISCAL IMPACT:

House Bill 4125, as introduced, would have an indeterminate, yet likely nominal, fiscal impact on the Liquor Control Commission (LCC) to the extent that the LCC would incur incidental expenses to modify administrative protocols concerning the shipment of wine.

Moreover, the sanctioning of licensed retailers to ship wine to customers could result in 1) fewer entities seeking or renewing licensure as direct wine shippers, for which they remit an annual \$100 fee, averaging approximately \$92,100 in revenue per annum, and 2) marginally higher retail sales of wine, for which excise (\$0.135 or \$0.20 per liter) and sales/use (6.0% of purchase price) taxes are levied and deposited into the state's General and School Aid Funds.

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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.