

Legislative Analysis



LIQUOR CODE: RAISE CAP ON PER-CASE FEES

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House Bill 4581 (reported from committee as H-1 substitute)

Sponsor: Rep. Kathy Crawford

Committee: Regulatory Reform

Updated on 10-7-15

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

REVISED SUMMARY:

House Bill 4581 would amend Section 205 of the Michigan Liquor Control Code to change the upper limit on the per-case fee paid to a vendor of spirits by the Liquor Control Commission as an offset to the costs incurred by that vendor in contracting with an authorized distribution agent for the warehousing and delivery of spirits to retailers.

Currently, the statute prescribes a fee of not less than \$4.50 but not more than \$7.50 per case. The bill would increase the maximum amount to \$10.00. The fee is understood to be a pass-through to the authorized distribution agents. The adjustment of the per-case fee was proposed in the section of the 2012 Office of Regulatory Reinvention report dealing with liquor control in the state, as recommendation #65. [Note: a vendor of spirits is required by the LCC to pay the ADAs an additional \$1.35 above the per-case offset established by the commission; this means they pay the ADAs \$8.85 per case for each case of spirits purchased by the LCC, for warehousing and delivery services.]

The bill also would strike language put in the code when the liquor distribution system was privatized in 1996 that required distributors to make a good faith effort to provide employment to the state employees who were losing their jobs in the privatization.

The bill would take effect 90 days after it is enacted into law.

BACKGROUND INFORMATION:

The following information is from the Michigan Liquor Control Commission website:

Michigan operates as a "control" state for the sale of spirits. That is, the Michigan Liquor Control Commission (MLCC) acts as the wholesaler for all spirits products. A "Vendor of Spirits" sells spirits to the MLCC. The MLCC 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). The ADAs are required to be certified by the MLCC and are also required to have a contract with each Vendor of Spirits they represent to deliver their particular spirit products. Spirit products are sold to consumers for off-premises consumption by licensed Specially Designated Distributors (SDD).

FISCAL IMPACT:

House Bill 4581 (H-1) would have an indirect negative fiscal impact on the state's General Fund (GF/GP) to the extent that any increases in the per case warehouse and delivery fee would be supported with revenue generated from the Liquor Control Commission's (LCC) wholesale mark-up of spirits sold to licensed retailers and deposited into the Liquor Purchase Revolving Fund (LPRF), the unexpended amounts of which lapse into the General Fund.

In FY 2013-14, the per case fee was \$7.50 and the total amount paid directly from the LPRF fees to vendors of spirits contracting with authorized distribution agents (ADAs) for warehousing and distribution was \$57.8 million, while the unexpended revenue within the LPRF lapsing to the General Fund was \$176.8 million.

If the Legislature enacts 4581 (H-1) and the LCC follows the recommendation of the Office of Regulatory Reinvention (ORR) published on 06/29/12 to increase the per case fee according to the Producer Price Index for transportation and warehousing industries calculated by the U.S. Bureau of Labor and Statistics, the per case fee would be \$8.89. This is equivalent to an average annual increase of 2.74% since 2006. (That was the last year that the LCC increased the per case fee to an amount not limited by the statutory cap, being \$6.97.) With that fee increase the total amount that would be directly paid from the LPRF for warehousing and distribution would be approximately \$68.6 million; an increase of approximately \$10.7 million over the FY 2013-14 amount, resulting in an equivalent decrease in the amount lapsing to the General Fund.

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