

# Legislative Analysis

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## LIQUOR VENDOR PER-CASE FEES

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**House Bill 4581 as enacted**  
**Public Act 246 of 2015**

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

**Sponsor: Rep. Kathy Crawford**  
**House Committee: Regulatory Reform**  
**Senate Committee: Regulatory Reform**  
**Complete to 1-6-16**

**BRIEF SUMMARY:** The bill amended Section 205 of the Michigan Liquor Control Code to increase from \$7.50 to \$8.25 the maximum allowed per-case fee the Liquor Control Commission can pay to a vendor of spirits; this fee is understood to be an offset to the costs incurred by a vendor in contracting with an authorized distribution agent for the warehousing and delivery of spirits to retailers.

**FISCAL IMPACT:** House Bill 5578 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 that is generated from the Liquor Control Commission's (LCC) wholesale mark-up of spirits sold to licensed retailers and that is deposited into the Liquor Purchase Revolving Fund (LPRF). Unexpended amounts of those revenues lapse into the General Fund.

In FY 2014-15, 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 \$60.3 million, while the unexpended revenue within the LPRF lapsing to the General Fund was \$194.7 million.

If the LCC raises the per case fee to the new maximum established by the bill, a 10.0% increase over the current fee, the amount that would be directly paid from the LPRF for warehousing and distribution would be approximately \$66.4 million. This is an increase of approximately \$6.0 million over the FY 2014-15 amount, resulting in an equivalent decrease in the amount lapsing to the General Fund.<sup>1</sup>

### **THE APPARENT PROBLEM:**

Vendors of spirits approach the MLCC periodically seeking an increase in the fee, which currently is set at the statutory maximum of \$7.50 per case. According to testimony presented in committee, if fee increases do not correspond to increases in business costs, it will hinder distributors' ability to perform their role in Michigan's liquor control system, potentially leading to job losses.

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<sup>1</sup> If the LCC were to follow the recommendation of the Office of Regulatory Reinvention (ORR) published on 6/29/12 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 raised to \$8.86, a 18.1% increase over the current fee. This is equivalent to an average annual increase of 2.70% since 2006, which was the last year that the LCC increased the per-case fee to an amount not limited by the statutory cap, being \$6.97.

## ***THE CONTENT OF THE BILL:***

House Bill 4581 amended 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.

Previously, statute prescribed a fee of not less than \$4.50 but not more than \$7.50 per case. The bill increased the maximum amount to \$8.25.

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 previously paid the ADAs \$8.85 per case for each case of spirits purchased by the LCC, for warehousing and delivery services.]

The bill also struck 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 took effect March 21, 2016.

## ***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).*

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