

Legislative Analysis



MICHIGAN CRAFT BEVERAGE COUNCIL

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

House Bill 5025 (proposed substitute H-2)
Sponsor: Rep. Brandt Iden

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

Senate Bill 671 (proposed substitute H-1)
Sponsor: Sen. Goeff Hansen

House Committee: Agriculture
Complete to 9-7-16

REVISED SUMMARY:

House Bill 5025 would amend Section 303 of the Michigan Liquor Control Code (MLCC) to incorporate language relating to the Grape and Wine Industry Council that was contained within Executive Reorganization Order 2014-2. That ERO created a new Grape and Wine Industry Council and abolished the former council described in statute. The bill would rename the council as the "Michigan Craft Beverage Council" and change the council's membership and modify its duties.

Senate Bill 671 would amend Sections 221 and 543 of the MLCC by requiring that, starting in FY 2017-18, \$500,000 be annually appropriated for the Michigan Craft Beverage Council. The bill also requires that, starting in FY 2018-19, the amount appropriated for the council in the prior year be increased annually by 1%.

HB 5025 would take effect 90 days after it is enacted into law. The bills are tie-barred, meaning neither can take effect unless both are enacted into law.

HB 5025 differs from the executive reorganization order in that the ERO kept the council membership at 12 individuals, while HB 5025 would set membership at 22.

Current membership

Presently, in statute, membership is as follows:

- Three wine makers.
- One wine grape grower.
- The director of Consumer and Industry Services (now known as the Department of Licensing and Regulatory Affairs), or a designee.
- The director of the Department of Agriculture, or a designee.
- A staff member of Michigan State University appointed by, and serving at the pleasure of, the Dean of the College of Agriculture and Natural Resources.
- The chairperson of the Liquor Control Commission or a designee, as an ex officio member.

- A person who operates a retail food establishment that holds a specially designated merchant (SDM) license and sells Michigan wines, or a person who operates a restaurant that holds a Class C license and serves Michigan wines.
- A beer and wine wholesaler who markets Michigan wine.

The governor currently can also appoint up to two additional non-voting members to assist the council in its duties. This language is eliminated by the bill.

Membership under Bill

Beginning on the date that HB 5025 takes effect, council membership would consist of 22 members, of which 9 would be voting members appointed by the governor. Eight of the non-voting members are specified in statute, while the other 5 non-voting members would be appointed by the governor. The 8 specified non-voting members would be the following:

- The CEO of the Michigan Economic Development Corporation (MEDC) or a designee.
- The director of MDARD or a designee.
- A staff member of Michigan State University appointed by, and serving at the pleasure of, the Dean of the College of Agriculture and Natural Resources.
- The chairperson of the Liquor Control Commission, or a designee, as an ex officio member.
- The president of the Michigan Restaurant Association or designee.
- The president of the Michigan Licensed Beverage Association or designee.
- The president of the Michigan Lodging and Tourism Association or designee.
- The president of the Michigan Beer and Wine Wholesaler or designee.

The presidents of the MRA, MLBA, MLTA, and MBWW are not presently on the Grape and Wine Industry Council, while the others are currently on the council as voting members.

The following voting members would be appointed by the governor:

- An individual who operates a retail food establishment that holds a specially designated merchant (SDM) license and sells Michigan wines, or a person who operates a restaurant that holds a Class C license and serves Michigan wines.
- Three wine makers, at least one of whom manufacturers wine made with fruit other than grapes.
- A large brewer. (The bill would define this term as a brewer that produces at least 60,000 barrels of beer but not more than 1 million barrels of beer per year. In determining this barrel threshold, all brands and labels of a brewed, regardless of whether brewed in Michigan, must be combined and include all facilities for production of beer owned or controlled by the same person.)
- A micro brewer (defined in the MLCC as a brewer that produces in total less than 60,000 barrels of beer per year. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, are combined and all facilities for the production of beer that are owned or controlled by the same person treated as a single facility.)

- A small distiller (defined in the MLCC as a manufacturer of spirits annually manufacturing in Michigan not exceeding 60,000 gallons of spirits, of all brands combined.)
- A beer and wine wholesaler who markets Michigan wine.
- A beer and wine wholesaler who markets Michigan beer

The governor would also appoint the following non-voting members:

- A retailer who holds a specially-designated merchant license or specially designated distributor license but does not hold an on-premises license.
- A representative from a college or university that has a research program related to the manufacturing of beer, wine, or spirits.
- A representative from a college or university that has an educational program related to the manufacture of beer, wine, or spirits.
- Two individuals who represent the agricultural industry related to the production of hops, grapes, apples, or cherries.

Council Duties

The council's duties would be expanded to include:

- Providing for research on hops, barley, beer, and spirits, including, but not limited to, methods of planting, growing, controlling insects and diseases, market, process, distribution, advertising, sales production, and product development.
- Providing the brewing and distilling industries, including growers, brewers, distillers, distributors, and retailers, with information relative to proper methods of handling and selling hops, barley, beer, and spirits.

Terms of members would also be modified by the bill. A member's term would last 3 years, up from the current 2 years, or until a successor is appointed, whichever is later. For voting members, of those first appointed, 3 would serve for 1 year, 3 would serve for 2 years, and 3 would serve for 3 years.

Other changes made to Section 303 regarding the council include:

- Adding "hops, barley, beer, and spirits" to existing duties relating to promoting Michigan wine and grapes and analyzing markets for growth in sales of wine and wine grapes.
- Capping the total amount of expenses paid on employing personnel and other expenses necessary to carrying out the council's duties at 10% of the fees credited to the council and appropriated under Section 221 of the MLCC.
- Prohibiting the council from engaging in lobbying.
- Requiring the council to do the following in addition to its current duties:
 - Develop and administer financial aid programs to hops and barley growers to encourage increased planting in Michigan.
 - Apply for, receive, and accept a grant from the office that promotes the Pure Michigan tourism campaign, or any successor campaign.
 - Prepare and approve an annual budget.
 - Establish educational partnerships to benefit the beer, wine, and spirits industries.

FISCAL IMPACT:

According to the Council's internal budget for FY 2015-16, estimated administrative expenses (staff salaries, benefits, travel, and other administrative expense) were \$488,000 or 57% of projected Council expenditures. Consumer and trade promotion and education totaled \$150,000 or 18% of the budget; the budget line for Viticulture and enology research totaled \$120,000 or 14% of the Council's internal budget. Each year the Council awards grants, primarily to Michigan State University researchers, to fund various wine grape research proposals.

Section 303(4) of the Liquor Code currently authorizes the Council to employ personnel and incur expenses to carry out the purposes of the Council. The section also requires that personnel and Council expenses be paid out of the non-retail liquor fee revenue earmarked to the Council in Section 543(2). House Bill 5025 would retain the current language of Section 303(4) but would add new language that would limit Council personnel and expenses to 10% of the Council's annual budget. This provision would limit Council personnel and administrative expenses to approximately \$80,000, a significant reduction as compared to the current baseline of \$488,000. Both the 2015-16 and 2016-17 fiscal year budgets authorize 3.0 full-time equated positions for the Council.

Although the bill would add additional program areas of responsibility to the Council's mission, the bill does not provide for new or increased fee revenue. However, the bill is tie-barred to SB 671, which would establish an ongoing General Fund appropriation of \$500,000 for credit to the Michigan Craft Beverage Council. Without this statutory General Fund earmark, or an annual appropriation of General Fund revenue, the additional program activities established in House Bill 5025 would have to be funded out of existing Council resources, specifically, non-retail liquor fee revenue. It's not clear if the bill can actually bind future Legislatures to make the annual appropriation of General Fund appropriation to the Council.

In the 2015-16 fiscal year MDARD budget, the total appropriation for Council activities was \$856,500, of which \$45,000 represented private industry funds used to support specific industry promotional events. The majority of funding, \$811,500, came from non-retail liquor fee revenue. The 2016-17 fiscal year MDARD budget appropriates \$1.1 million for Council activities: \$45,400 from private industry funds, \$875,600 from non-retail liquor fees, and \$170,000 from the state General Fund. The General Fund support was designated in the budget as "one time basis only."

The Michigan Grape and Wine Industry Council is established under Section 303 of the Michigan Liquor Control Code of 1998 as an agency within the Michigan Department of Agriculture and Rural Development (MDARD). Under current law the Council is directed to: provide for research on wine grapes and wines; provide the wine industry with information on the proper methods of handling and selling wine grapes and wine; provide for market surveys and analysis; promote the sale of Michigan wine grapes and wines; and develop and administer financial aid programs to wine grape growers to encourage the planting of desirable wine grapes in Michigan.

A number of licensing and regulatory fees are established under the Michigan Liquor Code. Section 543 of the Code provides for the distribution of fee revenue. Generally retail license and renewal fees are earmarked for enforcement of the licensing and regulatory enforcement provisions of the Liquor Code. Section 543 currently earmarks all other license and license renewal fees, i.e. fees other than retail license and renewal fees, to the Michigan Grape and Wine Council. The fees earmarked to the Grape and Wine Council in Section 543 are designated in MDARD budget as "non-retail liquor fees." These non-retail liquor fees generate approximately \$750,000 annually.

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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.