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BILL ANALYSIS

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Senate Bill 448 (Substitute H-4)
Sponsor: Senator John Proos
Senate Committee: Regulatory Reform
House Committee: Regulatory Reform

Date Completed: 12-13-16

CONTENT

The bill would amend the Michigan Liquor Control Code to require the Michigan Liquor Control Commission (MLCC) to reduce the gross markup on distilled spirits sold in Michigan from 65.0% to 64.0% in calendar year 2018, and then further reduce it by 0.5% each year until the markup reached 55.0% in 2036. The bill specifies that a markup reduction would take effect only if the markup reduction from the prior year did not result in a decrease in State revenue during that year.

Beginning in calendar year 2018, the bill also would require the MLCC to pay an eligible distiller, upon its request, \$15 per gallon of spirits it sold in Michigan, if the eligible distiller submitted to the MLCC its report of operations filed with the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of Treasury, for the MLCC to determine that the eligible distiller did not manufacture more than 60,000 gallons of spirits in that year. The bill also specifies that the payment could not exceed the gross profit to the MLCC minus the 17% discount received by specially designated distributors and on-premises licensees.

The request for payment to an eligible distiller would have to be made not later than April 15 of each year, and the MLCC would have to remit payment to the eligible distiller by July 31. The bill would define "eligible distiller" as a small distiller licensed under Section 534 of the Michigan Liquor Control Code, or an out-of-State entity that is the substantial equivalent of the licensed small distiller.

MCL 436.1233

FISCAL IMPACT

In total, the bill would result in the loss of State revenue relative to what would otherwise have been collected each year, beginning in fiscal year (FY) 2017-18, and increasing each year until the bill would be fully phased-in in FY 2035-36. The primary impact of the bill would be to reduce the amount of the Liquor Purchase Revolving Fund (LPRF) that lapses to the State General Fund each year, but other funds and taxes such as the School Aid Fund, the Convention Facility Development Fund, and the sales tax would be affected as well. These impacts are detailed in [Table 1](#). For background purposes, the LPRF is the enterprise fund used by the MLCC to conduct the sale of spirits in Michigan. Each year the profit generated by the MLCC's sales of spirits, once licensee discounts, payments to authorized distribution agents, and administrative costs are subtracted, lapses to the State General Fund. In FY 2014-15, the lapse was about \$195.7 million.

Revenue estimates provided in Table 1 assume that about 330,000 gallons of spirits would be eligible for the \$15/gallon payment each year, which is the approximate amount estimated by the MLCC for current and pending Michigan small distillers, and does not take into account out-of-State equivalents, for which there are no data to use for an estimate. It is also assumed that the spirits industry as a whole will grow at a rate of 2.5% per year, and that the number of gallons subject to the \$15/gallon payment would increase at the same rate. To provide some context, the industry has grown at a rate of about 3.5% per year since 1972.

In total, due to the number of assumptions, limited data, and long (20-year) time frame, it is difficult to produce a precise estimate of the bill's fiscal impact. Additionally, the estimates provided in Table 1 do not take into account the behavioral changes that would likely take place among small distillers in response to the \$15/gallon payment. To the extent that small distillers, given the payment, would be able to expand and compete with larger brands and effectively take some of their market share, the cost of those payments could increase dramatically, far beyond what this analysis takes into account. Some of that increased cost would be offset by outright increased growth in the small distiller industry, but market share taken by small distillers from large ones would not be offset.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

Table 1

Impact of Senate Bill 448 (H-4) on State Revenue

Effect of Bill on LPRF to GF/GP Lapse at Year-End			Effect of Bill on Three 4% Taxes for the Following: GF/GP, School Aid Fund, & Convention Facilities Fund ¹			Effect of Bill on Sales Tax			Total Effect of Bill on GF/GP			Total Effect of Bill on State Revenue			
Fiscal Year	LPRF Lapse to GF/GP Under Current Law	LPRF Lapse to GF/GP Under SB 448	Lapse Loss Under SB 448	Sum of 4% Taxes Under Current Law	Sum of 4% Taxes Under SB 448	Loss of 4% Taxes Under SB 448	Sales Tax Under Current Law	Sales Tax Under SB 448	Sales Tax Loss Under SB 448	Sum of GF/GP Revenue Under Current Law	Sum of GF/GP Revenue Under SB 448	GF/GP Loss Under SB 448	Sum of State Government Revenue Under Current Law	Sum of State Government Revenue Under SB 448	Total State Government Revenue Loss Under SB 448
2015	195.7	195.7	0.0	147.8	147.8	0.0	82.8	82.8	0.0	245.0	245.0	0.0	426.3	426.3	0.0
2016	203.1	203.1	0.0	151.5	151.5	0.0	84.8	84.8	0.0	253.6	253.6	0.0	439.5	439.5	0.0
2017	207.2	207.2	0.0	155.3	155.3	0.0	87.0	87.0	0.0	259.0	259.0	0.0	449.5	449.5	0.0
2018	211.3	200.9	(10.4)	159.2	158.2	(1.0)	89.1	88.6	(0.5)	264.4	253.7	(10.7)	459.7	447.7	(11.9)
2019	215.6	200.2	(15.4)	163.2	161.7	(1.5)	91.4	90.5	(0.8)	270.0	254.1	(15.9)	470.1	452.4	(17.7)
2020	219.9	200.6	(19.3)	167.2	165.2	(2.0)	93.6	92.5	(1.1)	275.6	255.7	(19.9)	480.8	458.3	(22.4)
2021	224.3	200.9	(23.3)	171.4	168.8	(2.6)	96.0	94.5	(1.5)	281.4	257.2	(24.2)	491.7	464.3	(27.4)
2022	228.8	201.2	(27.6)	175.7	172.5	(3.2)	98.4	96.6	(1.8)	287.3	258.7	(28.7)	502.9	470.3	(32.6)
2023	233.3	201.3	(32.1)	180.1	176.3	(3.8)	100.8	98.7	(2.1)	293.4	260.0	(33.3)	514.3	476.2	(38.0)
2024	238.0	201.3	(36.7)	184.6	180.1	(4.5)	103.4	100.9	(2.5)	299.5	261.3	(38.2)	526.0	482.2	(43.7)
2025	242.8	201.1	(41.6)	189.2	184.0	(5.2)	106.0	103.1	(2.9)	305.8	262.5	(43.3)	537.9	488.2	(49.7)
2026	247.6	200.9	(46.7)	193.9	188.1	(5.9)	108.6	105.3	(3.3)	312.3	263.6	(48.7)	550.2	494.3	(55.9)
2027	252.6	200.5	(52.1)	198.8	192.2	(6.6)	111.3	107.6	(3.7)	318.8	264.6	(54.3)	562.7	500.3	(62.4)
2028	257.6	200.0	(57.6)	203.8	196.3	(7.4)	114.1	110.0	(4.1)	325.5	265.4	(60.1)	575.5	506.3	(69.2)
2029	262.8	199.3	(63.5)	208.8	200.6	(8.2)	117.0	112.3	(4.6)	332.4	266.2	(66.2)	588.6	512.3	(76.3)
2030	268.0	198.5	(69.5)	214.1	205.0	(9.1)	119.9	114.8	(5.1)	339.4	266.8	(72.6)	602.0	518.3	(83.7)
2031	273.4	197.5	(75.9)	219.4	209.4	(10.0)	122.9	117.3	(5.6)	346.5	267.3	(79.2)	615.7	524.3	(91.4)
2032	278.9	196.4	(82.5)	224.9	214.0	(10.9)	125.9	119.8	(6.1)	353.8	267.7	(86.1)	629.7	530.2	(99.5)
2033	284.4	195.1	(89.4)	230.5	218.7	(11.9)	129.1	122.4	(6.7)	361.3	267.9	(93.3)	644.1	536.2	(107.9)
2034	290.1	193.6	(96.6)	236.3	223.4	(12.9)	132.3	125.1	(7.2)	368.9	268.0	(100.9)	658.7	542.1	(116.7)
2035	295.9	191.9	(104.1)	242.2	228.3	(13.9)	135.6	127.8	(7.8)	376.7	268.0	(108.7)	673.8	548.0	(125.8)
2036	301.9	190.0	(111.9)	248.3	233.2	(15.0)	139.0	130.6	(8.4)	384.6	267.7	(116.9)	689.1	553.8	(135.3)
2037	307.9	193.2	(114.7)	254.5	239.0	(15.4)	142.5	133.9	(8.6)	392.7	272.9	(119.8)	704.8	566.1	(138.7)

¹ The Michigan Liquor Control Code assesses three simultaneous 4% taxes on the base price of each bottle of distilled spirits. One tax is credited to the State General Fund, another is credited to the School Aid Fund, and the final one is credited to the Convention Facility Development Fund. To conserve space, Table 1 combines the three taxes, but they are actually three separate taxes