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BILL ANALYSIS



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Senate Bill 859 (as introduced 3-17-16)
Sponsor: Senator Rick Jones
Committee: Regulatory Reform

Date Completed: 11-9-16

CONTENT

The bill would amend the Michigan Liquor Control Code to do the following:

- **Prohibit a licensee from "knowingly" allowing individuals to commit certain acts, such as allowing an intoxicated individual to consume liquor on the licensed premises, or allowing a minor to consume liquor.**
- **Prohibit an on-premises licensee from knowingly allowing servers to mingle with customers.**
- **Prohibit an on-premises licensee and its employees from soliciting customers for the purchase of alcoholic liquor.**
- **Prohibit employees of a licensee from engaging in an illegal act on the licensed premises.**
- **Prohibit a licensee, officer or stockholder of a corporation, or member or manager of a limited liability company, from committing a felony or a specified crime on or off the licensed premises.**
- **Prohibit a licensee and its employees from knowingly allowing customers to be annoyed or molested on the licensed premises, or allowing the premises to be used for certain purposes.**

The bill would take effect 90 days after it was enacted.

Current Prohibitions

The Code prohibits a licensee from allowing any of the following:

- An individual who is in an intoxicated condition to consume alcoholic liquor on the licensed premises.
- An intoxicated individual to frequent or loiter on the licensed premises except where he or she has been refused service of further alcoholic liquor and continues to remain on the premises for the purpose of eating food, seeking medical attention, arranging transportation that does not involve driving himself or herself, or any other circumstances where requiring the individual to vacate the premises immediately would be dangerous to that individual or the public.
- A minor to consume alcoholic liquor or to possess alcoholic liquor for personal consumption on the licensed premises.
- An individual less than 18 years of age to sell or serve alcoholic liquor.
- An individual less than 18 years to work or entertain on a paid or voluntary basis on the licensed premises unless he or she is employed in compliance with the Youth Employment Standards Act, or is under the direct supervision and control of his or her parent or legal guardian.

A licensee also may not allow unlawful gambling or a gaming device prohibited by the law on the licensed premises.

Under the bill, a licensee could not "knowingly" allow any of the above to occur.

Under the Code, a licensee may not sell, offer or keep for sale, furnish, possess, or allow a customer to consume alcoholic liquor that is not authorized by the license issued to the licensee by the Michigan Liquor Control Commission. The bill would prohibit a licensee from doing so knowingly.

The Code also prohibits a licensee from selling or furnishing alcoholic liquor to a person that maintains, operates, or leases premises that are not licensed by the Commission and on which other people unlawfully engage in the sale or consumption of alcoholic liquor for consideration as prohibited by Section 913. The bill would prohibit a licensee from doing so knowingly.

(Section 913 prohibits a person from maintaining, operating, or leasing to any person any unlicensed premises where the other person may engage in drinking alcoholic liquor for consideration; or consuming alcoholic liquor in a commercial establishment selling food if the establishment is not licensed under the Code.)

Under the Code, a retail licensee may not, on the licensed premises, sell, offer for sale, accept, furnish, possess, or allow the consumption of alcoholic liquor that has not been purchased by the retail licensee from the Commission, the Commission's authorized agent or distributor, an authorized distribution agent certified by the Commission's order, or a licensee of the Commission authorized to sell that alcoholic liquor to a retail licensee. The bill would prohibit a retail licensee from doing so knowingly.

On-Premises Licensee Prohibitions

The bill would prohibit an on-premises licensee from knowingly allowing an individual who was engaged in the serving of food or alcoholic liquor to eat, drink, or mingle with the customers.

Also, an on-premises licensee, or the clerk, servant, agent, or employee of an on-premises licensee, could not solicit a customer for the purchase of alcoholic liquor, or allow a customer to solicit alcoholic liquor, for himself or herself or for any other person.

Prohibited Activity on Licensed Premises

The bill would prohibit a clerk, servant, agent, or employee of a licensee from engaging in an illegal occupation or illegal act on the licensed premises.

A licensee, an officer of a licensed corporation, a stockholder of a privately held corporation, or a member or manager of a limited liability company could not, on or off its licensed premises, commit any of the following:

- A felony.
- A crime involving the excessive use of alcoholic liquor.
- A crime involving gambling, prostitution, weapons, violence, tax evasion, fraudulent activity, or controlled substances.
- A misdemeanor that impaired, or could impair, the ability of the person to operate the licensed business in a safe and competent manner.
- Any of the offenses specified above that resulted in sentencing after a plea of no contest and for which the licensee would be subject to the penalties in Section 903 of the Code.

(Section 903 prescribes administrative penalties, including fines and license revocation, that may be imposed on a licensee for violating the Code or rules promulgated by the Commission.)

The prohibitions above would apply to the person, the officer of a corporate entity, the stockholder of a privately held corporate entity, or the member or manager of a limited liability entity of the person named as a participant on the licensee's participation permit.

Additional Prohibitions

Under the bill, a licensee, or a clerk, servant, agent, or employee of the licensee, could not do the following:

- Knowingly hinder or obstruct a law enforcement officer or Commission inspector or investigator in the course of making an investigation or inspection of the premises, or refuse, fail, or neglect to cooperate with a law enforcement officer or a Commission inspector or investigator in the performance of his or her duties to enforce the Code or Commission rules.
- Impersonate a Commission employee, a Commission investigator, or a law enforcement officer empowered to enforce the Code or Commission rules.
- Knowingly allow, on the licensed premises, the annoying or molesting of customers or employees by other customers or employees.
- Knowingly allow the licensed premises to be used by a person for the purposes of accosting or soliciting another person to commit prostitution.
- Knowingly allow, on the premises, fights, brawls, or the improper use of firearms, knives, or other weapons.
- Knowingly allow the sale, possession, or consumption on the licensed premises of a controlled substance that was prohibited by the Public Health Code.
- Knowingly allow narcotics paraphernalia to be used, stored, exchanged, or sold on the licensed premises.

MCL 436.1707 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local government. A violation of the Code by a licensee is a misdemeanor punishable by imprisonment for up to six months, a fine of up to \$500, or both. A violation of the Code by anyone other than a person required to be licensed is a misdemeanor punishable by imprisonment for up to 90 days, a fine of up to \$500, or both.

It is unknown whether the provisions would lead to more or fewer misdemeanor arrests and prosecutions. An increase in misdemeanor arrests and prosecutions could increase resource demands on law enforcement, court systems, community supervision, and jails. Any increased fine revenue would be dedicated to public libraries. Conversely, a decrease could reduce resource demands on law enforcement, court systems, community supervision, and jails. Any decreased fine revenue would reduce revenue dedicated to public libraries.

Fiscal Analyst: Ryan Bergan
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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.