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House Bill 5781 (Substitute H-3 as passed by the House)
Sponsor: Representative Michael Webber
House Committee: Ways and Means
Senate Committee: Committee of the Whole

Date Completed: 6-23-20

CONTENT

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

- Allow the governing body of a local governmental unit to designate a social district that contained a commons area that could be used by qualified licensees that obtained a social district permit to sell alcoholic liquor for consumption within the confines of the commons area if certain conditions were met.**
- Require the governing body to define and mark clearly the commons area with signs and to establish local management and maintenance plans for the commons area.**
- Require the governing body to maintain the commons area in a manner that protected the health and safety of the community.**
- Allow the governing body to revoke the designation if it determined that the commons area threatened the health, safety, or welfare of the public or had become a public nuisance.**
- Specify the circumstances under which the holder of a social district permit could sell alcoholic liquor for consumption within the confines of a commons area, such as using a container that met certain requirements.**
- Prescribe a fee of \$250 for a social district permit.**
- Specify that the bill's provisions would not apply after December 31, 2024.**

The bill is tie-barred to Senate Bill 942 and House Bill 5811. (These bills would modify certain provisions pertaining to the sale, delivery, and purchase of liquor by on-premises licensees, and would allow carryout sales of liquor by an on-premises licensee, respectively.)

Commons Area Designation and Revocation

The bill would allow the governing body of a local governmental unit to designate a social district that contained a commons area that could be used by qualified licensees that obtain a social district permit.

(The bill would define "local governmental unit" as a city, township, village, or charter authority. "Commons area" would mean an area within a social district clearly designated and clearly marked by the governing body of the local governmental unit that is shared by and contiguous to the premises of at least two other qualified licensees. The term would not include the licensed premises of any qualified licensee.)

"Qualified licensee" would mean any of the following: a) a retailer that holds a license, other than a special license, to sell alcoholic liquor for consumption on the license premises; b) a manufacturer with an on-premises tasting room permit issued under the Code; c) a manufacturer that holds an off-premises tasting room license issued under the Code; or, d) a manufacturer that holds a joint off-premises tasting room license issued under the Code.)

A governing body of a local governmental unit could not designate a social district that would close a road unless the governing body received prior approval from the road authority with jurisdiction over the road. (The bill would define "road authority" as a local road agency or the State transportation department. "Local road agency" would mean a county road commission or designated county road agency or city or village that is responsible for the construction or maintenance of public roads within the State.)

If the governing body of a local governmental unit designated a social district that contained a commons area under the bill, the governing body would have to define and mark clearly the common area with signs. The governing body would have to establish local management and maintenance plans, including hours of operation, for a commons area and submit those plans to the Liquor Control Commission.

The governing body would have to maintain the commons area in a manner that protected the health and safety of the community. Subject to the bill's provisions, the governing body could revoke the designation if it determined that the commons area threatened the health, safety, or welfare of the public or had become a public nuisance. Before revoking the designation, the governing body would have to hold at least one public hearing on the proposed revocation. The governing body would have to give notice as required under the Open Meetings Act of the time and place of the public hearing before the public hearing.

The governing body would have to file the designation or the revocation with the Liquor Control Commission.

Alcoholic Liquor Sales and Consumption in Commons Area

The bill would allow the holder of a social district permit to sell alcoholic liquor for consumption within the confines of a commons area if the holder of the social district permit sold and served alcoholic liquor only on the holder's licensed premises and served alcoholic liquor to be consumed in the commons area only in a container to which the following applied:

- The container prominently displayed the social district permittee's trade name or logo or some other mark that was unique to the social district permittee under the social district permittee's on-premises license.
- The container prominently displayed a logo or some other mark that was unique to the commons area.
- The container was not glass.
- The container had a liquid capacity that did not exceed 16 ounces.

If the Commission issued a special license to a special licensee located in a social district, the holder of a social district permit could not sell and serve alcoholic liquor as described above during the effective period of the special license.

Under the bill, a purchaser could remove a container of the alcoholic liquor sold by a holder of a social district permit as described above from the social district permittee's licensed premises if both of the following conditions were met:

- Except as otherwise provided below, the purchaser did not remove the container from the commons area.
- While possessing the container, the purchaser did not enter the licensed premises of a social district permittee from which the purchase purchased the container.

The bill specifies that the consumption of alcoholic liquor from a container as described above in the commons area could occur only during the legal hours for the sale of alcoholic liquor by the social district permittee.

Social District Permit Requirements and Fee

Under the bill, a qualified licensee whose licensed premises was shared by and contiguous to a commons area in a social district designated by the governing body of a local governmental unit could obtain from the Commission an annual social district permit. The social district permit would have to be issued for the same period and could be renewed in the same manner as the license held by the applicant.

The bill would require the Commission to develop an application for a social district permit and to charge a fee of \$250 for a social district permit. An application for a social district permit would have to be approved by the governing body of the local governmental unit in which the applicant's place of business was located before the application was submitted to the Commission and before the permit was granted by the Commission. The \$250 permit fee would have to be deposited into the Liquor Control Enforcement and License Investigation Revolving Fund under the Code.

The bill specifies that its provisions would not apply after December 31, 2024.

MCL 436.2021 et al.

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. The cost to the Michigan Liquor Control Commission of developing an application for the social district permit likely would be covered by existing appropriations. However, the fee of \$250 would not fully cover the cost of developing or administering the program. It is unclear at this time how many licensees would apply for this permit. The cost of replacing liquor and refunding licensees is unknown and would depend upon the volume. Revenue from the permit fee would be deposited into the Liquor Control Enforcement and License Investigation Revolving Fund.

The costs associated with the designation of social districts and the permit approval process to local government units would be absorbed by existing appropriations. It is possible, however, that local units could experience unknown cost increases related to regulation and enforcement. The magnitude of these costs would be determined by the number of permits issued and the subsequent implementation of the social district guidelines.

Fiscal Analyst: Elizabeth Raczkowski

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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.