



House Bill 4842 (Substitute S-1 as reported)
Sponsor: Representative Pat Outman
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

CONTENT

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

- Beginning July 1, 2022 and each subsequent July 1, allow a small distiller or an out-of-State entity that was the substantial equivalent of a small distiller to file an application with the Department of Agriculture and Rural Development (MDARD) to be certified as a qualified small distiller, i.e., a distiller that produced at least 40% of its distilled base distillate from distilled grain grown and harvested in Michigan.
- Specify that for each bottle of spirits produced by a qualified small distiller, the price for each bottle would have to return a profit to the Michigan Liquor Control Commission (MLCC) of 32.5%, beginning January 1, 2023.
- Require MDARD to submit to the Commission an annual report that included the name of each qualified distiller.
- Prescribe penalties, including a misdemeanor penalty, for a small distiller or an out-of-State entity that was the substantial equivalent of a small distiller that knowingly provided false information to the Commission.
- Require a qualified small distiller to keep certain records and accounts of all transactions pertaining to the operation of its distillery.

MCL 436.1233

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have an overall negative fiscal impact on the MLCC within the Department of Licensing and Regulatory Reform (LARA) and on several State funds, including the School Aid Fund and the General Fund. The bill also contains provisions that could generate fee revenue for the State. The proposed misdemeanor would have an indeterminate fiscal impact on local units of government.

The bill would establish an application process for the certification of small distillers within MDARD, which would affect LARA and specifically the MLCC. The Liquor Purchase Revolving Fund (LPRF) is the enterprise fund used by the MLCC to conduct the State's business as the sole wholesaler of distilled spirits. Each year, the profit generated through this activity lapses to the General Fund.

Under the bill, the gross return on each bottle of spirits from a qualified small distiller would be set at 32.5% instead of the current 65.0%. The number of small distillers that could be certified by MDARD and affected by this change is unknown. However, as of March 2022, there were 169 small distillers licensed by the MLCC who could qualify for certification by MDARD if they also met the sourcing criteria.

Recent data on the number of bottles sold by qualified small distillers are unavailable. The bill would result in an unknown reduction in revenue to the LPRF, which would result in a decrease in funds' lapsing to the General Fund. A portion of the LPRF also is used for MLCC administrative activities. Revenue to the School Aid Fund, the Convention Facility Fund, and the General Fund would decrease separately from the LPRF. While the change could have a notable impact on the LPRF, overall, the reduction likely would not significantly affect State finances because of the small number of qualifying entities. Administrative activities undertaken by MLCC as a result of the bill likely would be covered by existing appropriations.

In addition, the bill would result in costs to MDARD, including the hiring of 1.0 FTE auditor position at an estimated cost of \$150,000 for salary and other expenses. The Department could receive applications from small distillers to qualify as a "qualified small distiller" and would be allowed to charge a reasonable certification fee (in an unspecified amount). The Department then would have to certify an applicant as a qualified small distiller if it determined that at least 40% of the small distiller's base distillate met the bill's requirements. The actual amount of revenue provided from application fees to MDARD to support certification activities would depend upon the amount of the fee and the number of distillers applying for certification. The Department estimates that if all 136 small distillers applied for the certification, the fee would have to be approximately \$1,100 in order to cover the estimated administrative cost. Any restricted funding amounts that fell short of the actual cost of administering the bill's provisions would have to be supported with General Fund revenue.

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