



House Bill 4565 (Substitute S-1 as reported)
Sponsor: Representative Mark Meadows
House Committee: Regulatory Reform
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 11-16-09

RATIONALE

Underage drinking is a concern both nationally and in Michigan. According to statistics cited by Mothers Against Drunk Drivers (MADD), 31% of teen traffic deaths are alcohol-related, and underage drinkers are responsible for over 16% of all alcohol consumed in the United States. In Michigan, data from 2002 to 2006 show that between 9.5% and 10.2% of individuals aged 12 to 20 met the diagnostic criteria for alcohol dependence or abuse, according to the Substance Abuse and Mental Health Services Administration, in the U.S. Department of Health and Human Services. Statistics cited by MADD also indicate that beer is the drink of choice for most underage drinkers, and alcohol-related fatalities are caused primarily by the consumption of beer. It has been suggested that the availability of beer in kegs contributes to underage drinking, since a keg of beer is relatively inexpensive and can serve many people in a private setting. To address this situation, a number of states have enacted keg registration, or tagging, laws. These laws require retailers to record identifying information about keg purchasers, creating a paper trail for law enforcement and liquor control officials. Some people believe that Michigan should enact this requirement, as well.

CONTENT

The bill would add Section 1029 to the Michigan Liquor Control Code to do the following:

- Require retailers selling beer in a keg to: attach an identification tag to the keg, require the purchaser to**

sign a receipt, refuse to return the keg deposit if the tag were not attached upon the keg's return, and retain receipts for at least 30 days.

- Require the Liquor Control Commission (LCC) to make ID tags available to retailers selling beer in a keg, provide them with signs, and prescribe the required receipt.**
- Set an administrative fine for retailers who committed certain violations.**
- Prescribe a misdemeanor penalty for people who were not retailers or wholesalers for certain violations.**

"Keg" would mean any brewery-sealed individual container having liquid capacity of five gallons or more.

Specifically, the bill would require a retailer selling beer in a keg to do all of the following:

- Attach an ID tag, as prescribed by the LCC, on the keg before or at the time of selling the beer.
- Require the purchaser of the beer to complete and sign a receipt after presenting a driver license or State of Michigan identification card.
- Refuse to return the keg deposit if the ID tag were not attached when the keg was returned.
- Retain a deposit as specified in R 436.1629 of the Michigan Administrative Code.

(Rule 436.1629 requires manufacturers, outstate sellers of beer, and wholesalers of

beer to collect a barrel deposit of \$30 for a barrel, half-barrel, and quarter-barrel of beer. A cash refund of \$30 for a barrel, half-barrel, and quarter-barrel of beer must be made to a licensee who has made the deposit, and returned barrels for refund.)

A retailer could not sell beer in a keg to a customer who did not possess a driver license or State of Michigan ID card.

The LCC would have to prescribe the receipt for use in the sale of beer by the keg. The receipt would have to contain at least a place for the purchaser's printed name, address, and telephone number, and the beer keg tag number. A retailer could not sell beer in a keg unless the purchaser completed and signed the receipt. A notice would have to be printed on the receipt in boldfaced type the same size as that used on other parts of the receipt.

The LCC would have to provide retailers with a sign stating all of the following:

- That the retailer would not return the keg deposit to the purchaser of the beer if the tag were not attached to the keg upon its return.
- That the individual signing the receipt did so with the understanding that he or she agreed not to damage the keg or remove or alter the attached tag.
- That the individual signing the receipt did so with the understanding that he or she was subject to liability for serving the beer to any minor.

The LCC would have to make ID tags available to retailers selling beer in a keg. The tags would have to be of such size and materials as to make them easily removable for the purpose of the keg's cleaning and reuse by its owner. Upon request, the Commission would have to distribute the tags and make them available in numbered lots to retailers selling beer in a keg.

Retailers selling beer in a keg would have to keep a copy of the receipt for at least 30 days and make the copy available for inspection by the LCC and law enforcement agencies.

A retailer who failed to apply an ID tag on a keg, intentionally failed to complete the receipt, or failed to obtain the purchaser's

signature on the receipt, would be liable for an administrative fine of up to \$50.

A person who was not a retailer or a wholesaler licensed by the LCC would be guilty of a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500, for any of the following:

- Removing an ID tag from a keg containing beer.
- Allowing the removal of an ID tag from a keg of beer purchased by that individual.
- Providing false information in the purchase of beer in a keg.

The bill specifies that Section 1029 would require the attaching of a tag to a beer keg sold at retail for use by a member of the general public and would not require a retailer or licensee to attach a tag to a keg that was being used for on-premises consumption only, being stored, being transported, or being used by a caterer providing the service.

The bill also states that Section 1029 would not prohibit an LCC agent or a law enforcement agent from returning an untagged keg and receiving the keg deposit on behalf of the Commission or the law enforcement agency.

Proposed MCL 436.2029

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

With over 50 12-ounce servings in a five-gallon keg, keg beer provides a cheap, accessible source of alcohol that can be consumed by teens at unsupervised house parties, or by underage college students at off-campus gatherings. When police arrive at a keg party and everyone runs away, there currently is no way to identify who purchased the keg. By requiring retailers to tag kegs and keep receipts signed by purchasers, the bill would create a paper trail that law enforcement and liquor control agents could use to identify keg purchasers and enforce the legal drinking age. As of January 1, 2009, 31 other states had keg registration laws, according to the Alcohol

Policy Information System, in the National Institutes of Health.

Response: The 30-day retention requirement for receipts would not be long enough to allow the investigation of violations, especially if civil litigation were involved. According to Committee testimony on a virtually identical proposal (Senate Bill 470), Liquor Control Commission rules typically require records to be kept for four years, and a one- or two-year retention requirement for keg purchase receipts would be more appropriate.

Supporting Argument

Research by the Rand Corporation has identified keg registration as one of 10 evidence-based strategies for reducing underage drinking, which is a serious problem throughout the United States. In addition to the direct health impacts related to alcohol consumption, the consequences of underage drinking can range from academic failure to traffic fatalities. Statistics cited by MADD also implicate alcohol use in homicides, suicides, assaults, theft, unplanned and unprotected sex, sales of illicit drugs, handgun possession, and emergency room visits. By helping to reduce underage drinking, this legislation could help to reduce the related societal and economic costs.

Opposing Argument

The bill would impose an undue regulatory burden on retailers. The small business community needs less government intervention, not more, in order to thrive. Stores already are short-staffed and would have to bear the cost of compliance.

Response: Alcohol distribution is one of the most highly regulated areas in this society, and the proposed tagging requirements would be a small imposition considering the serious and fatal consequences of alcohol abuse. The Liquor Control Commission would be responsible for providing the tags, and retailers could cover their costs by raising keg prices.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would increase the costs of the Liquor Control Commission (LCC) within the Department of Energy, Labor, and Economic Growth. The LCC would be required to prescribe the information to be

included on receipts to document keg sales, provide signs to retailers, and make ID tags available to retailers. The LCC would incur additional costs to administer the keg tag program. The LCC's revenue in excess of administrative costs is deposited annually in the General Fund. To the extent that the bill increased the LCC's costs, the General Fund contribution would be reduced.

The bill also would provide for administrative fines against retailers who were not in compliance with the keg tag and receipt requirements. Any revenue from administrative fines would be deposited into the General Fund.

The bill would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of the proposed offenses involving kegs of beer. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

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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.