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BILL ANALYSIS

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House Bill 4565 (Substitute H-2 as passed by the House)
Sponsor: Representative Mark Meadows
House Committee: Regulatory Reform
Senate Committee: Economic Development and Regulatory Reform

Date Completed: 10-27-09

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 or apply other means of identification to the keg, require the purchaser to sign a receipt, accept the return of the keg and refuse to return the keg deposit if the keg identification were not attached or applied 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, make notices available to them, and supply the required receipt upon request.**
- 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.**
- Include a statement of legislative intent.**

"Keg" would mean any brewery-sealed individual container having liquid capacity of six 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 or apply other means of identification on the keg before or at the time of selling the beer.
- Require the purchaser of the beer to complete and sign a receipt supplied by the LCC after presenting a driver license or State of Michigan identification card.
- Accept the return of the keg and refuse to return the keg deposit if the keg ID were not attached or applied when the keg was returned.
- Retain a deposit equivalent to the deposit paid by the retailer to its supplier or wholesaler 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.

Upon request, the LCC would have to supply to retailers the receipt for use in the sale of beer by the keg. The receipt would have to provide a space to enter the purchaser's printed name, address, telephone number, and driver license or State ID number and the ID information from the beer keg. A retailer could not sell beer in a keg unless the purchaser completed and signed the receipt.

The LCC would have to make available to each retailer selling beer in kegs a notice to be posted, stating all of the following:

- That the retailer would accept the keg's return but would not return the keg deposit to the purchaser of the beer if the keg ID were removed or altered.
- 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 keg identification.
- 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 after the date the keg was returned and make the copy available for inspection by the LCC and law enforcement agencies.

A retailer who failed to apply an ID tag or other means of identification on a keg, 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, wholesaler, or supplier 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 either of the following:

- Removing an ID tag or other means of identification applied to a keg containing beer.
- Providing false information in the purchase of beer in a keg.

The bill specifies that Section 1029 would require the attaching of a tag, or application of other means of identification acceptable to the LCC, 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 or apply other ID to a keg that was being used for on-premises consumption, storage, or transportation.

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

The bill would prohibit a local unit from enacting an ordinance that conflicted with Section 1029.

The bill states: "It is the intent of the legislature that this section preempt any ordinance enacted in contravention of this section. The remedies in this section are cumulative, and the bringing of a criminal action does not prohibit the bringing of a civil or administrative action as provided by law."

FISCAL IMPACT

The bill would increase the costs of the Liquor Control Commission within the Department of Energy, Labor, and Economic Growth. The LCC would be required to provide retailers with identification tags for beer kegs and signs describing keg policies. The LCC also would be required to supply receipts to document keg sales. The LCC would incur additional costs to supply receipts and keg tags, and 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.