

Legislative Analysis



REQUIRE TAGS ON BEER KEGS: REPEAL

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Senate Bill 372 as reported by House committee

Sponsor: Sen. Goeff Hansen

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Complete to 10-9-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 166 of 2017)

BRIEF SUMMARY: The bill would repeal a provision of law that requires all kegs of beer sold at retail to have an attached identification tag.

FISCAL IMPACT: The bill would have an indeterminate fiscal impact on LARA and local corrections systems. See *Fiscal Information* below for more information.

THE APPARENT PROBLEM:

In an attempt to curtail keggers that often attracted underage persons, legislation was enacted in the form of Public Act 344 of 2010 to require that a tag that could identify the purchaser be attached to the beer keg. At the time the legislation was enacted, over 30 other states had adopted similar laws. It was believed that if identifying the person who purchased the keg were easier, the purchaser would exercise more responsibility to ensure that minors did not attend the party or access the keg of beer.

The law may have decreased the sales of beer kegs in some areas, but it has done little to stem underage drinking or binge drinking by all age groups. In fact, some states found that driving fatalities related to underage drinking increased after a keg tag law took effect. Most likely, some say, is that keg tag laws merely changed the pattern of consumption, with partygoers choosing hard liquor or cases of beer over kegs, and minors drinking *before* going to a party in case they were denied alcohol by the hosts.

Retailers report a system of paperwork that is burdensome. In addition, the tags reportedly either do not stick well (and are lost) or are so difficult to remove that kegs get damaged in the process. A purchaser cannot receive his or her deposit unless the tag is still affixed to the keg, leading to some simply not returning the keg. Some retailers say they have lost a significant number of kegs; at about \$150 to replace a keg, this can represent a considerable financial loss to a business.

The result is that several years later, many feel Public Act 344 is a failed experiment and should be repealed.

THE CONTENT OF THE BILL:

Senate Bill 372 would repeal Section 1030 of the Michigan Liquor Control Code, MCL 436.2030, which requires that all kegs of beer sold at retail have an attached identification tag, requires ID and a signature to purchase a keg, and which provides an administrative

fine for retailers and a criminal penalty for consumers for certain violations. The bill would take effect 90 days after enactment.

Briefly, provisions of Section 1030 currently require a liquor retailer (e.g., party store) to do the following:

- Attach an identification tag, prescribed by the Michigan Liquor Control Commission (LCC), to a beer keg before or at the time of sale.
- Post a sign supplied by the LCC stating the keg deposit will not be returned if the tag is not attached, among other things.
- Require the purchaser to present a driver license or state ID card and complete and sign a receipt.
- Refuse to return a keg deposit if a keg was returned without the tag attached.
- Retain a deposit as specified in departmental rules.
- Retain a copy of a receipt for at least 30 days.

A retailer who violates Section 1030 is subject to an administrative fine of not more than \$50 for failing to attach an identification tag to a keg, intentionally failing to complete the receipt, or failing to obtain the purchaser's signature on the receipt.

A person who is not licensed as a retailer or wholesaler and who removes a tag from the keg, allows the removal of the tag from a keg he or she had purchased, and/or who provides false information when purchasing a beer keg is guilty of a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500.

HOUSE COMMITTEE ACTION:

The bill was not amended by the Committee.

FISCAL INFORMATION:

Senate Bill 372 would likely create minimal savings for the Department of Licensing and Regulatory Affairs and no fiscal impact on other units of state or local government. The bill would eliminate a requirement that kegs have an identification tag that is prescribed by the Michigan Liquor Control Commission (MLCC). LARA has indicated that the last expenditure for keg tags and receipt books for the program occurred in April of 2015, and was financed with \$33,050.00 from the Liquor Purchase Revolving Fund (LPRF). Savings on expenditures financed by the LPRF would result in increased monies for the General Fund, since LPRF profits lapse to that fund.

With the elimination of the beer keg tag, the misdemeanor penalty would also be eliminated. Elimination of misdemeanor charges would result in reduced costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. Caseloads for local court systems could be reduced, as well as the related administrative costs. There could also be a decrease in penal fine revenues which would

decrease funding for local libraries, which are the constitutionally designated recipients of those revenues.

ARGUMENTS:

For:

Intended to curtail underage drinking, some say the beer keg tag law has instead had the effect of increasing dangerous drinking. Party-goers merely switched to drinking hard liquor, from products with 10 percent proof (beer) to 80-proof drinks (vodka, etc.). Coupled with the trend to binge drink (4 or more drinks for a female and 5 or more for a male), the result has been more young people with toxic levels of alcohol. More must be done to curb this dangerous trend, but maintaining a program that is ineffective and that may be making the situation worse must end. Some out of state colleges, such as the University of Nebraska, have reported better outcomes with increased university/community partnerships that include, among things, parties with excessive drinking being reported to landlords (who can face fines if the problems persist), unruly students living off-campus being reported to the university and subject to administrative sanctions, and students being taken to detox centers where they can receive medical help and counseling instead of criminal penalties. Thus, if the goal is to decrease underage drinking and over-consumption by college students, more effective measures do exist and should be explored.

Further, the beer keg tag law has proven to be expensive and burdensome for many retailers. The tags fall off or take a lot of elbow grease to remove, sometimes resulting in damage to the kegs. Tags have to be placed on the kegs in the cooler, meaning that staff must leave the floor and cannot attend to customers. Purchasers tend not to return kegs if the tag falls off as they cannot obtain a refund of their deposit. Moreover, the retailer must keep a record of the purchaser's personal identifying information for at least 30 days, increasing the chance that unintended persons may access the information.

In light of what appears to be a negative, and unintended impact by Public Act 344, it is time to repeal the law and instead explore initiatives that may be more effective in reducing both underage drinking and dangerous drinking by those of any age.

Against:

Some say that evaluating keg tagging laws is difficult and that definitive research is lacking. Therefore, it is difficult to find evidence by which to support or oppose tagging beer kegs as a way to decrease underage drinking. The important thing is that effective public policy be established to address the serious problem posed by high school and college students who drink in violation of the law.

POSITIONS:

A representative of the Michigan Brewers Guild testified in support of the bill. (9-27-17)

A representative of Schmolz Brewery testified in support of the bill. (9-27-17)

Michigan Licensed Beverage Association indicated support for the bill. (9-27-17)

Michigan Retailers Association indicated support for the bill. (9-27-17)

Michigan Grocers Association indicated support for the bill. (9-27-17)

The Michigan Liquor Control Commission indicated it has no position on the bill.
(9-27-17)

A representative of the Michigan Alcohol Policy Promoting Health & Safety testified in opposition to the bill. (9-27-17)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.