

## MARIHUANA-INFUSED ALCOHOL

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**Senate Bill 969 (S-1) as reported from House committee**

**Sponsor: Sen. Rick Jones**

**House Committee: Regulatory Reform**

**Senate Committee: Regulatory Reform**

**Complete to 9-14-18**

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

**BRIEF SUMMARY:** Senate Bill 969 would make it a misdemeanor offense to use, possess, or sell alcoholic beverages infused with marihuana.

**FISCAL IMPACT:** Senate Bill 969 would have an indeterminate fiscal impact on local units of government. Information is not available on the number of persons who might be convicted under provisions of the bill. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

### **THE APPARENT PROBLEM:**

Numerous studies have shown that consuming either alcohol or marihuana can lead to impaired driving. When alcohol consumption is combined with marihuana consumption, studies show, the effects of marihuana are enhanced, and vice versa. Currently, marihuana-infused alcoholic beverages are prohibited under federal law. However, in light of changing attitudes regarding the legalization of marihuana for recreational use and for commercial operations, some feel that the state should be proactive and adopt a state prohibition on such beverages.

### **THE CONTENT OF THE BILL:**

Senate Bill 969 would add a new section to the Michigan Liquor Control Code to prohibit a person from using or offering for use, possessing, or selling or offering for sale *marihuana-infused beer, wine, mixed wine drink, mixed spirit drink, or spirits*.

*Marihuana-infused beer, wine, mixed wine drink, mixed spirit drink, or spirits* would mean beer, wine, mixed wine drink, mixed spirit drink, or spirits that contain any amount of *marihuana*.

*Marihuana* would mean that term as defined in the Public Health Code. [The Public Health Code defines “marihuana” to mean all parts of the plant *Cannabis sativa* L., growing or not; the seeds of that plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. Marihuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of

the plant that is incapable of germination. Marihuana does not include industrial hemp grown or cultivated for research purposes under the Industrial Hemp Research Act.]

A violation of the proposed new section, regardless of whether the person violating the section is or is not a licensee, would be a misdemeanor punishable as provided in Section 909 of the Code. The misdemeanor punishment for a licensee under Section 909 is imprisonment for up to 6 months or a fine of up to \$500, or both. Section 909 does not specifically prescribe the punishment for a misdemeanor violation committed by a nonlicensee. In such a circumstance, Section 504 of the Michigan Penal Code designates the penalty as imprisonment for up to 90 days or a fine of up to \$500, or both. [Note: A 90-day misdemeanor does not trigger a search of the national fingerprint database or provide a mechanism to track repeat offenses.]

Further, the bill would exempt the following entities from the prohibitions regarding marihuana-infused alcohol:

- A hospital that operates primarily for the purpose of conducting scientific research.
- A state institution conducting bona fide research.
- A private college or university conducting bona fide research.
- A pharmaceutical company or biotechnology company conducting bona fide research.

Proposed MCL 436.1914b

#### ***HOUSE COMMITTEE ACTION:***

The House Committee on Regulatory Reform reported the Senate-passed version of the bill without amendment.

#### ***ARGUMENTS:***

##### ***For:***

Both alcohol and marihuana are known to increase a driver's risk of being involved in a traffic crash. Combining the two is also known to exacerbate the effects of both on a driver's attention and ability to safely operate a vehicle. In addition, according to representatives of the liquor industry, allowing marihuana-infused alcohol could create a "regulatory nightmare" in which two very different regulatory systems operating under different statutes and rules would govern such a product.

Under the bill, on- or off-premises liquor licensees, such as bars and package liquor stores, would be prohibited from selling marihuana-infused alcoholic beverages. The bill also would prohibit an individual from using or even possessing beer, wine, spirits or mixed wine or spirit drinks that are infused with marihuana. (Under the definition of "marihuana" contained in the Public Health Code, the prohibition would include components of hemp, because industrial hemp is only excluded from that definition if it is being grown or cultivated for research purposes under the Industrial Hemp Research Act.) A violation would be a criminal offense that could result in going to jail and/or paying a fine. Some feel that establishing such penalties can have a deterrent effect, thus reducing the risk of serious or fatal injuries to a driver, his or her passengers, and pedestrians or occupants of other vehicles.

Michigan would not be alone in banning marihuana-infused alcoholic beverages, as California recently adopted rules that prohibit infusing alcoholic beverages with marihuana containing THC (the psychoactive compound) or CBD (the non-psychoactive compound believed to have medicinal properties) or infusing any edible product with CBD derived from industrial hemp. Federal law also makes such substances illegal (although the Alcohol and Tax and Trade Bureau, or TTB, Hemp Policy<sup>1</sup> does permit the limited use of hemp derivatives in alcoholic beverages).

Where at least one brewer has created a non-alcoholic beer flavored with hemp or marihuana, some feel even that type of product would be illegal under the bill. This is because most so-called non-alcoholic products contain trace amounts of alcohol; under definitions contained in the Liquor Code, “non-alcoholic” beverages would still fall under the Code’s regulations and the bill’s prohibitions.

***Against:***

No arguments opposing the bill were offered before the House committee, though a representative of the Michigan Chapter of the National Organization for the Reform of Marihuana Laws testified in opposition at a Senate hearing on the bill.

***POSITIONS:***

Representatives of the Michigan Beer and Wine Wholesalers Association testified in support of the bill. (6-6-18)

The Michigan Licensed Beverage Association indicated support for the bill. (9-5-18)

Michigan Alcohol Policy Promoting Health and Safety (MAP) indicated support for the bill. (9-5-18)

The Michigan Liquor Control Commission indicated a neutral position on the bill. (9-5-18)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Robin Risko

---

■ 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.

---

<sup>1</sup> <https://www.ttb.gov/newsletters/archives/2018/ttb-newsletter052518.html>