



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 372 (as Passed by the Senate)
Sponsor: Senator Goeff Hansen
Committee: Regulatory Reform

Date Completed: 5-31-17

RATIONALE

Public Act 344 of 2010 amended the Michigan Liquor Control Code to require retailers to place tags on beer kegs that identify the purchaser, retent information about a beer keg purchaser, and keep a keg deposit if the keg is returned without the tag. These regulations were enacted because beer kegs were seen as contributors to underage drinking due to their low cost, capacity to serve many people in a private setting, and lack of markings to indicate the purchaser. Supporters of the beer keg tags believed that they would reduce the availability of alcohol to minors by identifying the purchaser of a keg and would enable law enforcement to hold him or her accountable in the event that the beer was served to a minor. However, some now believe that the regulations have become unnecessarily burdensome for retailers and consumers, have been ineffective, and have done little to assist law enforcement. Therefore, it has been suggested that the beer keg tag regulations be repealed.

CONTENT

The bill would repeal Section 1030 of the Michigan Liquor Control Code, which regulates the retail sale of beer in a keg.

Specifically, Section 1030 requires a retailer selling beer in a keg to do all of the following:

- Attach an identification tag, as prescribed by the Michigan Liquor Control Commission, on the keg before or at the time of the sale.
- Require the purchaser 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 identification tag is not attached when returned.
- Retain a keg deposit as described under the Michigan Administrative Code.

A notice containing the information described above must be printed on the receipt and state all of the following:

- That the retailer will not return the keg deposit to the purchaser of the beer if the tag is not attached to the keg upon its return.
- That the individual signing the receipt does so with the understanding that he or she agrees not to damage the keg and not to remove or alter the attached tag.
- That the individual signing the receipt does so with the understanding that he or she is subject to liability for serving the beer to any minor.

The retailer must retain a copy of the receipt for at least 30 days after the date the keg was returned and must make the copy available for inspection by the Commission and law enforcement agencies.

A retailer may not sell beer in a keg to a customer who does not possess a driver license or State of Michigan identification card.

The Commission must make identification tags available to retailers selling beer in a keg. Upon request, the Commission must distribute and make available the tags in numbered lots to retailers selling beer in a keg.

A person violating Section 1030 under the following circumstances is subject to the applicable sanctions:

- A retailer who has failed to apply an identification tag on a keg, intentionally failed to complete the receipt as prescribed by the Commission, or failed to obtain the purchaser's signature on the receipt is liable for an administrative fine of not more than \$50.
- A person who is not a retailer or a wholesaler licensed by the Commission is guilty of a misdemeanor punishable by imprisonment for up to 93 days or a maximum fine of \$500, or both, for removing an identification tag from a keg containing beer; allowing the removal of an identification tag from a keg of beer purchased by that individual; or providing false information in the purchase of beer in a keg.

Section 1030 states that it requires the attaching of a tag to a beer keg sold at retail for use by a member of the general public and does not require a retailer or licensee to attach a tag to a keg that is being used for on-premises consumption only, being stored, being transported, or being used by a caterer providing catering service.

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

The bill would take effect 90 days after its enactment.

MCL 436.2030

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

Although the beer keg tag regulations appeared to be a good idea when they were enacted, the regulations should be repealed for several reasons. First, they are burdensome for consumers and retailers. According to Committee testimony, the stickers used to "tag" the kegs are difficult to keep on, because temperature changes may cause condensation on a keg that works against the adhesive material on the sticker, which makes it susceptible to falling off. A retailer may not return a beer keg deposit to a purchaser if the tag is not attached when the keg is returned. Because the tags do not always stick, the consumer loses his or her \$30 deposit and must dispose of the keg, which is taken out of circulation. Also, completing the required paperwork can be time-consuming for both the consumer and the retailer. In addition, the Michigan Liquor Control Commission stated that the tags cost it around \$20,000 annually.

Furthermore, the regulations evidently have not been effective. According to Committee testimony, people are buying cases of beer to bypass the keg tag regulations altogether. After they were implemented, an article quoted several retailers in the Ann Arbor area stating that the regulations negatively affected keg sales.¹ Some of those retailers repeated the statements in Committee: They doubted that the regulations decreased the availability of alcohol because cases of beer are

¹ Woodhouse, Kellie, "Where have all the keg sales gone? Ann Arbor sales plummet since tag law took effect last year", Annarbor.com, 9-7-2012.

easy substitutes. In other words, the tagging requirements merely shifted the purchasing habits of those looking to acquire beer in large quantities to other sources. The decrease in beer keg sales also compounds the costs associated with maintaining a keg inventory.

Finally, law enforcement has not benefited from the regulations. According to the Commission, it has not received a call from any law enforcement authority regarding a beer keg tag, nor has it received any formal complaints from the Attorney General's office regarding a licensee violating the tag requirements.

Repealing the beer keg tag regulations would remove an unnecessary regulatory burden on businesses as well as consumers.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have a small positive fiscal impact on the Michigan Liquor Control Commission (MLCC) and no fiscal impact on local units of government. According to the MLCC, the annual cost to administer the beer keg tag program is about \$23,000. The bill would repeal the requirement for these tags, so the MLCC would presumably save on those costs each year. It is not clear whether liquor license fee revenue or revenue from the Liquor Purchase Revolving Fund (LPRF) is currently used to cover these costs, but if it is the latter, then the cost savings would directly benefit the State General Fund, as the LPRF's profits lapse to the General Fund each year.

Fiscal Analyst: Josh Sefton

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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.