Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 579 (Substitute S-2 as reported)
Sponsor: Senator John Proos
Committee: Regulatory Reform

CONTENT

The bill would amend the Michigan Liquor Control Code to revise the percentage of gross profit returned to the Michigan Liquor Control Commission (MLCC) from the sale of alcoholic liquor by specially designated distributors as follow.

-- For 2018, not greater than 65% (the current level).
-- For 2019, not greater than 64.5%.
-- For 2020, not greater than 64.5%; or 64%, beginning with the second quarterly price for 2020, if the 2019 total sales of spirits in Michigan increased by at least 2%.
-- For 2021, not greater than the percentage established for 2020; or a 0.5% reduction from the previous year, beginning with the second quarterly price for 2022, if the 2021 sales of spirits in Michigan increased by at least 2%.
-- For 2022, not greater than the percentage established for 2021; or a 0.5% reduction from the previous year, beginning with the second quarterly price for 2022, if the 2021 sales of spirits in Michigan increased by at least 2%.
-- For 2023 and each year after that, the percentage established in 2022.

The bill also would do the following:

-- Allow a small distiller to file an application with the Department of Agriculture and Rural Development (MDARD) to be certified as a qualified small distiller, i.e., a distiller that produced at least 40% of its distilled base distillate from distilled grain grown in Michigan.
-- Require MDARD to submit to the MLCC an annual report that included the name of each qualified distiller that was certified.
-- Prescribe penalties, including a misdemeanor penalty, for a small distiller that provided false information to the MLCC
-- Require a qualified small distiller to keep certain records and accounts of all transactions pertaining to the operation of its distillery, and give MDARD access to the records and accounts pertaining to the small distiller's small grain handling.
-- Specify that for each bottle of spirits produced by a qualified small distiller, the price would have to return a profit to the MLCC of 32.5%, beginning January 1, 2020.

MCL 436.1233 Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have an overall negative fiscal impact on the Michigan Liquor Control Commission within the Department of Licensing and Regulatory Affairs (LARA) and on several State funds, including the School Aid Fund and the State General Fund. The bill also contains provisions that could generate fee revenue for the State. The proposed misdemeanor would have an indeterminate fiscal impact on local units of government.

The bill would reduce the required gross profit returned to the MLCC from the sale of alcoholic liquor beginning in calendar year 2019, as described above. If sales were increased by at least 2% in both 2019 and 2020, the gross profit percentage in 2021 would be set at not more than 63.5%. If reduced to 63.5%, the State would experience annual revenue losses estimated as follows: $10.9 million in General Fund/General Purpose revenue, $474,300 to the School Aid Fund, $474,300 to the Convention Facility Development Fund, and $711,500 in lost sales tax revenue. These costs are estimated using full-year revenue, as a by-quarter breakdown is unavailable.

The Liquor Purchase Revolving Fund is the enterprise fund used by the MLCC to conduct the State's business as the sole wholesaler of distilled spirits. Each year, the profit generated through this activity lapses to the State's General Fund. In FY 2016-17, the total amount lapsed was approximately $209.7 million. The bill would result in a reduction in future lapse amounts due to the losses noted above, dependent on the Fund's fiscal year revenue and expenses.

The bill also would establish an application process for the certification of small distillers within the Department of Agriculture and Rural Development, which would affect LARA and specifically the MLCC. The gross return on each bottle of spirits from a qualified small distiller would be set at 32.5% rather than the current 65% (or the percentage proposed by the bill). The number of small distillers that would be affected by this change is unknown. An estimate using FY 2016 data on brands producing less than 60,000 gallons annually suggests a loss of approximately $7.3 million in revenue, but the actual loss would likely be less due to the limited number of distillers that would receive certification.

The bill would result in costs to MDARD, including the hiring of 1.0 FTE auditor position at an estimated cost of $150,000 for salary and other expenses. The Department could receive applications from small distillers to qualify as a "qualified small distiller", and would be allowed to charge a reasonable certification fee (in an unspecified amount). The Department then would be required to certify an applicant as a qualified small distiller, if it determined that at least 40% of the small distiller's base distillate was distilled from distilled grain grown and harvested in Michigan. The Department, along with the Commission, could examine the records and accounts pertaining to the qualified small distiller's distilled grain handling business. Beginning October 1, 2019, the Department would be required to submit an annual report to the Commission, which would include the name of each qualified small distiller certified. The actual amount of revenue provided from application fees to MDARD to support certification activities would depend upon the amount of the fee and the number of distillers applying for certification. Any restricted funding amounts that fell short of the actual cost of administering the bill's provisions would have to be supported with General Fund revenue.

Increased misdemeanor arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, and jails. Any associated increase in fine revenue would increase funding to public libraries.

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Fiscal Analyst: Bruce Baker
Elizabeth Raczkowski