

Legislative Analysis



BEER FESTIVAL LICENSE

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

Senate Bill 1351

Sponsor: Sen. Tupac A. Hunter

Senate Bill 1352

Sponsor: Sen. Jason E. Allen

House Committee: Regulatory Reform

Senate Committee: Economic Development and Regulatory Reform

Complete to 7-23-08

A SUMMARY OF SENATE BILL 1351-1352 AS PASSED BY THE SENATE 6-27-08

BACKGROUND:

The bills are identical to House Bills 6187 and 6188 as passed by the House. (For more information, see the analysis by the House Fiscal Agency dated 6-12-08¹). In short, the bills taken together would create a special license that would allow an organizer of beer festivals to hold up to six events a year and would allow the holder of the special license to purchase beer directly from a licensed brewpub (currently brewpubs are restricted to selling their beer to consumers only and the sales can only take place at their licensed premises).

Supporters of the proposal feel that the bills will enable Michigan brewpubs to participate in beer festivals sponsored by nonprofit organizations, such as the Michigan Brewers Guild, that organize beer festivals showcasing Michigan-brewed beer. The measure may also indirectly increase tourism.

Concerns linger over the apparent conflict between the special license provisions of Senate Bill 1351 and House Bill 6188, which are identical, and existing liquor code provisions and commission rules pertaining to special licenses.

CONTENT:

The bills would allow an organization holding a beer festival where beers are being showcased to apply for a special license, and allow a licensed brewpub, microbrewer, or brewer to sell directly to that organization. The bills are tie-barred to each other, meaning that neither can effect unless both are enacted.

¹ <http://www.legislature.mi.gov/documents/2007-2008/billanalysis/House/pdf/2007-HLA-6187-3.pdf>

In general, alcoholic beverages can only be sold for consumption on the premises of licensed restaurants, bars, and hotels. The sale and delivery of alcoholic beverages to these licensees are strictly regulated under the liquor code and may only be done by a person licensed as a wholesaler (beer, wine, and mixed spirit drink) or authorized distribution agent (spirits). Under rules of the Liquor Control Commission, however, qualifying nonprofit organizations may apply for a special license that allows for the sale of beer, wine, and/or spirits for consumption on the licensed premises for a limited period of time; for example, a fund-raising event. A special licensee is allowed under the rules to purchase alcoholic beverages from any retail establishment licensed to sell for off-premises consumption; in addition, beer can also be purchased from a licensed wholesaler and wine can be purchased from a wholesaler or licensed wine maker or small wine maker.

Specifically, each bill would do the following:

Senate Bill 1351 would add a new section to the Michigan Liquor Control Code (MCL 436.1526) to allow the Michigan Liquor Control Commission to issue a special license to a nonprofit entity composed primarily of brewers, microbrewers, and brewpubs conducting a beer festival that had as its primary purpose the showcasing of beer and its production. "Beer festival" would be defined in the bill as an event at which the various types and kinds of beer and the production of that beer were showcased to the general public. The public could purchase and sample the beer being showcased for consumption on the licensed premises.

There would be a \$25 application fee per day of an event. The beer festival special license would restrict the holder to no more than six events per calendar year. The bill would allow the holder of a special license for a beer festival to buy a quantity of beer determined appropriate by the commission directly from any licensed brewpub for consumption only at the licensed event.

[Note: Senate Bill 1351 as written appears to conflict with existing provisions of the liquor code pertaining to special licenses. For instance, the liquor code currently allows qualifying organizations, including an auxiliary of an organization, up to 12 special licenses per calendar year. The special license fee is \$50 per day, or \$25 per day for nonprofit associations meeting certain criteria, MCL 436.1525(1)(r). A special license is a time-restricted license and is valid for a 24-hour period; therefore, one license is needed for each day of an event. As an example, a church holding a three-day event with a beer tent would need three special licenses at either \$50 or \$25 per day depending on the status of the nonprofit organization. The bill does not define "event," but the term could include a multi-day festival. Therefore, it is unclear how the bill's use of the terms "special license" and "event" would be reconciled with existing law regarding special licenses.]

Senate Bill 1352 would also add a new section to the Michigan Liquor Control Code (MCL 436.1413) to allow direct sales of beer by a licensed brewpub to an organization conducting a beer festival under a special license created by Senate Bill 1351. The

Liquor Control Commission would determine the appropriate amount of beer that could be sold directly to a special licensee by a brewpub, microbrewery, or brewer.

FISCAL IMPACT:

Senate Bill 1351 would have an indeterminate fiscal impact on the state and on local units of government, depending on the number of licenses granted under the bill, as compared to the number of special licenses issued by the Michigan Liquor Control Commission (MLCC) for similar events under current law. Currently, the Liquor Control Code permits the MLCC to issue a "special license" to qualifying nonprofit organizations. The fee is \$50 per day for organizations established less than one year and \$25 per day for organizations established for one year or more. (There's an additional 15 percent fee for Sunday if spirits are sold.) Current law limits organizations to 12 special licenses, with one license valid for one day.

Because the bill uses the phrase "special license" to denote a license issued for a beer festival, it is not entirely clear how it interacts with current (and longstanding) law regarding other special licenses issued to nonprofit organizations. Apparently, there is no data indicating the number of events licensed under the current system. To the extent the bill doesn't alter the number of events (days) held in a year, the bill would not impact liquor license fee revenue. However, to the extent the bill results in the proliferation of these festivals, the bill would increase liquor license revenue. Under the Liquor Control Code, MCL 436.1525, fee revenue would be credited to the MLCC (41.5 percent), local law enforcement (55 percent), and alcoholism prevention programs.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf

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