

MOTORSPORTS LIQUOR USE

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

House Bill 4541 as enrolled

Public Act 166 of 2005

Sponsor: Rep. Dianne Byrum

House Committee: Regulatory Reform

Senate Committee: Economic Development, Small Business and Regulatory Reform

Second Analysis (8-14-06)

BRIEF SUMMARY: The bill would create a motorsports event license for the sale of beer and wine on the licensed premises at sanctioned motorsports events, allow patrons of motorsports complexes with a motorsports event license to carry in their own beer and wine for personal consumption, and apply the provisions to any motorsports entertainment complex with at least 1,500 seats.

FISCAL IMPACT: During the first seven months after enactment, the Department of Labor and Economic Growth reports that no motorsports event licenses have been purchased. Therefore, administrative costs to date have been minimal, and no additional staff have been hired. No future estimates of revenue are available, but it is unlikely to have significant fiscal impact on either State restricted revenue or State expenditures.

THE APPARENT PROBLEM:

Public Act 725 of 2002 (enrolled Senate Bill 1401) amended the liquor code to allow, among other things, members of the general public under certain circumstances to bring alcohol purchased elsewhere into a motorsports entertainment complex for consumption on the complex grounds. One of the restrictions of the act is that it only applies to motorsports entertainment complexes that have at least 70,000 fixed seats for race patrons. As drafted, the act applied only to the Michigan International Speedway (MIS) in Brooklyn. The reasoning behind the act was that it had been a long standing practice for race patrons to bring their own alcoholic beverages to auto races.

However, there are 49 drag strips and oval tracks in the state, all of which have a loyal fan base that has been bringing alcoholic beverages to races for decades. But the liquor code prohibits a person from drinking alcohol in a commercial establishment that sells food if that establishment does not have a liquor license. It is also prohibited to consume alcohol on any premises for which consideration had been made (for example, buying a ticket for admittance to the track). Only recently have these track owners realized that they are breaking the law. Legislation has been offered to allow tracks as small as 1,500 seats to apply for a liquor license for the sale of beer and wine for on-premises consumption; patrons of those tracks would then be allowed to bring their own beer or wine as long as the tracks meet certain other conditions.

THE CONTENT OF THE BILL:

House Bill 4541 would amend the Michigan Liquor Control Code to create a new on-premises liquor license – the motorsports event license – for the sale of beer and wine at motorsports entertainment complexes, allow any track with at least 1,500 fixed seats to apply for the license, and allow race patrons at a track with a motorsports event license to bring in their own beer and wine. It also would add the Michigan State Promoters Association to the list of entities included in the definition of "sanctioning body." A more detailed summary of the bill follows.

Application. The bill would revise the definition of "motorsports entertainment complex" to mean a closed-course motorsports facility and its ancillary grounds that comply with all of the following:

- Has at least 1,500 (decreased from 70,000) fixed seats for race patrons.
- Has at least seven scheduled days of motorsports events each calendar year.
- Serves food and beverages at the facility during sanctioned motorsports events each calendar year through concession outlets, which may be (instead of a majority being required to be) staffed by individuals who represent or are members of one or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets' sales.
- Engages in tourism promotion.

The bill would delete from the current definition a requirement that a motorsports entertainment complex have at least four motorsports events each calendar year and that exhibitions of motorsports history, events, or vehicles be located on the property.

Motorsports event license. The bill would allow the Liquor Control Commission to issue a motorsports event license for the sale of beer and wine for consumption on the premises to the owner of a motorsports entertainment complex for use during sanctioned motorsports events only. The annual license fee would be \$250. Motorsports event licenses would not be subject to the population quota restrictions for on-premises licenses.

BYOB by patrons. Current provisions allowing race patrons to bring alcoholic beverages into the Michigan International Speedway would be amended to allow, under certain circumstances, the public to bring beer or wine into any motorsports entertainment complex that was licensed to sell beer and wine.

The bill would specify that for a period of time not to exceed seven consecutive days during which public access was permitted to a motorsports entertainment complex in connection with a motorsports event, members of the general public that were at least 21 years or older could bring beer or wine (instead of alcoholic beverages) that hadn't been purchased at the licensed motorsports entertainment complex into the complex. Possession and consumption of the beer and wine would be allowed only in portions of the complex open to the general public that were also part of the licensed premises of a

retail licensee (the complex owner who had received a motorsports event license) under both of the following circumstances:

- The licensed premises were located within the motorsports entertainment complex.
- The retail licensee held a license for consumption on the licensed premises of the motorsports entertainment complex.

Civil liability. The current provision in the code would not be amended. Currently, the person who holds a license for on-premises consumption of alcohol at a motorsports entertainment complex is subject to the liquor code's civil liability provisions of Section 801 if the civil action is brought by or on behalf of an individual who suffers damage or is personally injured by a minor or visibly intoxicated person by reason of the unlawful consumption of alcoholic liquor on the licensed premises by that minor or intoxicated person if the unlawful consumption is proven to be a proximate cause of the damage, injury, or death of the individual, whether the alcoholic liquor was sold or furnished by the licensee or had been brought onto the licensed premises by a race patron.

MCL 436.1518, 436.1518, 436.1525, and 436.1537

ARGUMENTS:

For:

Because most motorsports entertainment complexes in the state do not sell alcohol, it has been a longstanding practice for race fans to bring their own alcoholic beverages. Only recently have track owners realized that in permitting this, they are violating provisions of the liquor code that prohibits the consumption of alcoholic beverages on unlicensed premises. The bill would remedy this situation by revising and expanding the provisions of Public Act 725 of 2002, which only applied to the Michigan International Speedway, so as to apply to all tracks with more than 1,500 seats. Members of the Michigan Speedway Promoters' Association feel that to do otherwise "would create a tremendous economic hardship in lost ticket sales revenue."

Currently, to sell alcohol for consumption on the premises, a track owner would have to apply for a Class C (beer, wine, and spirits) or a tavern license (beer and wine). The liquor code restricts the number of these types of licenses issued in the state based on the population of the governmental unit in which the establishment is located; a license application must also be approved by the local government. In addition, the initial license could cost anywhere from \$600 if one was available from the Liquor Control Commission to several thousand dollars if a track owner had to purchase an escrowed license from an establishment that had gone out of business; annual renewal fees are \$600. For a small track sponsoring only a few races a year, the cost of a Class C or tavern license would be prohibitive.

House Bill 4541 would create a new, low-cost liquor license that would allow tracks with at least 1,500 fixed seats to sell beer and wine for consumption on the premises. In

addition, fans could carry in their own beer and wine at any track that had a liquor license. Consumption of the beer and wine would have to be within the licensed premises (for example, in the stands or concession area as opposed to the parking lot). These new licenses, known as the "motorsports event licenses," would not be subject to the liquor code's population quota system and would only cost \$250 a year. Unlike the previous provision that allowed fans to bring in "alcoholic liquor," the bill would allow race fans to only carry in beer and wine at any race track with a liquor license, even if the track (for instance, the Michigan International Speedway) had a Class C license to sell spirits.

Against:

It would seem that the bill represents yet another expansion of drinking and further erosion of the liquor laws by creating another new liquor license that is not subject to the population quota system.

Response:

Motorsports events are largely family affairs involving children, teens, and couples on dates. Most patrons act responsibly; reportedly, when one county prosecutor looked into the police reports for the area surrounding a race track in his jurisdiction, he found no problems associated with the track or its practice of allowing fans to bring in their own alcohol.

In addition, all provisions of the liquor code will apply to track owners with a motorsports event license. For example, on-premises licensees are required to maintain a minimal level of liability insurance coverage, employees must check IDs to avoid sales and service to minors, and furnishing alcohol to visibly intoxicated persons is strictly prohibited. Under provisions of Public Act 725, which initially allowed race fans to carry in alcohol at the MIS, any individual who suffered injury due to a race patron's unlawful consumption of alcohol could bring a civil action to recover damages; this provision will also apply to smaller tracks with a motorsports event license.

Plus, fans are still required to abide by all the laws of the state. Just because they will be able to legally bring beer or wine into a race track under the bill doesn't mean that they would be exempt from laws prohibiting drunk driving, assault, or other criminal behavior. In short, creating a liquor license specific to motorsports tracks actually establishes civil liability where it didn't exist before and puts the onus on the track owners to monitor the alcohol consumption of their fans.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Richard Child

■ 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.