

REQUIRE TAGS ON BEER KEGS

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Senate Bill 470

Sponsor: Sen. Alan Sanborn

House Committee: Regulatory Reform

Senate Committee: Economic Development and Regulatory Reform

Complete to 6-9-10

A REVISED SUMMARY OF SENATE BILL 470 AS PASSED BY THE SENATE 6-25-09

Among other things, the bill would amend the Michigan Liquor Code to require all kegs of beer sold at retail to have an attached identification tag, require ID and a signature to purchase a keg, and create an administrative fine for retailers and a criminal penalty for consumers for certain violations.

Applicability of the bill. For purposes of the bill, "keg" would mean any brewery-sealed individual container having liquid capacity of five gallons or more. The bill would apply only to kegs sold at retail for use by a member of the general public. A keg would not have to have a tag attached to it if it was being used for on-premise consumption only, being stored, being transported for retail use, or being used by a caterer providing the service.

Commission duties. The Michigan Liquor Control Commission (LCC) would be required to:

** Prescribe the receipt that purchasers would sign. At a minimum, the receipt would have to contain a place for the purchaser's printed name, address, telephone number, and beer keg tag number. The receipt would also have to contain the same information contained in the commission-issued sign described below.

** Supply retailers with a sign stating that a retailer will not return the keg deposit if the tag is not attached; that the individual signing the receipt agrees not to damage the keg or remove or alter the attached tag; and that the individual signing the receipt understands he or she is subject to liability for serving the beer to minors

** Distribute and make identification tags, in numbered lots, available to retailers upon request who sell beer in a keg. The tags would have to be of such size and materials as to make them easily removable to allow for cleaning and reuse of the keg by the keg's owner.

Retailer duties. A retailer would have to:

* Attach an identification tag as prescribed by the commission to a beer keg before or at the time of sale.

** Post a commission-issued sign, described above.

* Require the purchaser to present a driver's license or state ID card and complete and sign a receipt, described above. A keg could not be sold without the required identification.

* Refuse to return a keg deposit if a keg was returned without the identification tag attached. However, the bill would not prohibit a commission agent or a law enforcement agent from returning an untagged keg and receiving the keg deposit on behalf of the LCC or the law enforcement agency.

* Retain a deposit as specified in departmental rules. (Rule 436.1629 of the Administrative Code requires manufacturers, outstate sellers of beer, and wholesalers of beer to collect a barrel deposit of \$30 for a barrel, half-barrel, and quarter-barrel of beer. A cash refund of \$30 for a barrel, half-barrel, and quarter-barrel of beer must be made to a licensee who has made the deposit, and returned barrels for refund.)

* Retain a copy of a receipt for at least 30 days and make the copies available for inspection by the commission and law enforcement agencies.

Penalties. A retailer would be subject to an administrative fine of not more than \$50 for failing to attach an identification tag to a keg, intentionally failing to complete the required receipt, or failing to obtain the purchaser's signature on the receipt.

A person who was not licensed as a retailer or wholesaler by the commission and who removed the attached identification tag, allowed the removal of the tag from a keg he or she had purchased, and/or who provided false information in the purchase of a beer keg would be guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500, or both. (A maximum term of imprisonment greater than 92 days triggers certain reporting and records retention provisions that include sending the fingerprints to the FBI for a check of the national criminal databases.)

FISCAL IMPACT:

The bill would require the Liquor Control Commission to provide retailers with the receipt forms that retailers would be required to use when selling kegs of beer under the provisions of the bill and with the identification tag that must be affixed to the keg when it is sold. The individual per unit cost of the receipt forms would only be a few cents. The cost of the identification tag would depend on the design features, although, on an individual per unit basis, such costs would likely not be significant. The Liquor Control Commission estimates the total cost of printing and shipping the keg forms and identification tags to be approximately \$7,500 on an annual basis. These costs likely would be borne by the LCC, given that the bill contains no explicit authority allowing the LCC to pass these costs on to retailers when they obtain the forms and identification tags, as needed.¹

¹ Similar keg registration laws have been enacted in 31 other states. In California, for instance, the Department of Alcohol Beverage Control charges retailers \$9.00 for a receipt book containing 50 receipts and \$21 for a keg identification tag packet containing 100 tags. Presumably, these costs represent the department's actual production and shipping costs. Additionally, the Indiana Alcohol and Tobacco Commission, charges \$3.25 for a booklet of 50 keg registration labels. The Connecticut Department of Consumer Protection charges \$6.00 for a booklet of 50 labels.

The bill also requires the LCC to provide retailers with a notice that notifies consumers concerning the use of a keg. The cost of the notice is estimated by the LCC to be \$4,000 for the signs themselves, and an additional cost of \$5,000 for mailing. These costs could be mitigated in large measure if the notice is available through the LCC's website as a downloadable form, similar to the age sign that must be posted. In all, the total costs for materials would be approximately \$16,000 on an annual basis.

Additionally, the bill would impose an administrative fine of \$50 on retailers who fail to comply with the bill's keg tag requirements. Ostensibly, this penalty would be in addition to other sanctions that may be meted out by the LCC in the course of administering and enforcing state liquor laws (which include license suspension or revocation.) Any revenue generated from the administrative fine would be credited to the General Fund.

The bill would impose additional administrative and enforcement costs on the LCC and local law enforcement agencies to ensure compliance on the part of retailers and consumers. The bill does not, however, provide any additional resources to the LCC or local law enforcement agencies. The activities of the LCC and local law enforcement agencies relating to the enforcement of liquor laws are generally financed through the issuance of retail liquor licenses, where 41.5% of license fee revenue is retained by the LCC for administration and enforcement, and 55% is returned to local governments for enforcement activities. The licensing and enforcement activities of the LCC are partially funded by the Liquor Purchase Revolving Fund. To the extent the bill increases LCC expenditures from the LPRF, it would serve to reduce the LPRF transfer to the General Fund. This reduction is offset, to some degree, if the penalty provisions of the bill result in an increase in revenue credited to the General Fund.

To the extent that misdemeanor convictions increased under the bill, local units of government could incur increased costs of jail incarceration or misdemeanor probation supervision, both of which vary with jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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■ 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.