

Legislative Analysis



SMALL DISTILLER OFF-SITE TASTING ROOMS

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House Bill 4996

Sponsor: Rep. Dan Scripps

Committee: Regulatory Reform

Complete to 9-16-10

A SUMMARY OF HOUSE BILL 4996 AS INTRODUCED 5-26-09

House Bill 4996 would amend the Liquor Control Code to permit small distillers to sell their product at off-site tasting facilities operated by the small distiller.

MCL 436.1537

FISCAL IMPACT:

The bill would have an indeterminate impact on the Liquor Control Commission. This uncertainty largely arises because, under the bill, these off-site facilities would not be "licensed premises" - unlike off-site wine tasting rooms, which are licensed by the LCC.¹ Because there would be no license for these facilities, they would not undergo inspection by the LCC (currently at a cost of \$70 charged to the applicant), nor would there be any associated license application process, with another annual license fee. While this would greatly limit the LCC's licensing activities (compared to if these were licensed), the LCC could potentially incur higher enforcement costs (should violations occur) due to the fact that the location of these facilities would be unknown to the LCC. According to the LCC, there are currently 19 small distillers in the state. However, there could be any number of off-site tasting facilities operated by these 19 small distillers.

The Liquor Control Commission's enforcement activities are supported, in part, with Liquor Purchase Revolving Funds. To the extent the bill requires an increase in the LCC's enforcement activities, it would result in an increase in LPRF expenditures. By statute, the net income of the LPRF is credited to the General Fund at the end of the fiscal year, meaning that the any increased LPRF expenditures would serve to reduce the amount transferred to the General Fund. For the past several years this amount has totaled about \$160 million annually.

¹ Under Section 537 of the Liquor Control Code, a wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions: (a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements; (b) Payment of a \$100.00 fee per location is made to the commission; (c) The wine tasting locations shall be considered licensed premises; (d) Wine tasting does not take place between the hours of 2 a.m. and 7 a.m. Monday through Saturday, or between 2 a.m. and 12 noon on Sunday; (e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

On the other hand, allowing small distillers to sell their product through off-site tasting rooms would generally serve to increase their sales territory, potentially leading to higher sales, and higher state tax revenue, through the state's mark-up (in its role as the wholesaler of spirits) and the imposition of a series of specific taxes (totaling 13.85%) credited to the LPRF, General Fund, and the School Aid Fund.

BACKGROUND INFORMATION:

Under the Liquor Control Code a small distiller license is issued by the LCC to manufacture spirits, not to exceed 60,000 gallons annually of all brands combined. Small distiller licensees may offer free samples to consumers on their manufacturing premises, may sell spirits to consumers for consumption on the manufacturing premises, and may also sell to consumers for off-premise consumption. Small distillers may not sell directly to retailers but, instead, must register with the LCC as a Vendor of Spirits in order to sell their product to the LCC and must contract with an Authorized Distribution Agent to warehouse and distribute their spirits. In addition to the annual state license (\$100 annual fee), the small distiller must also obtain a distilling permit from the federal Alcohol and Tobacco Tax and Trade Bureau.

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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.