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Senate Bill 1430 (as introduced 7-21-10)
Sponsor: Senator Buzz Thomas
Committee: Economic Development and Regulatory Reform

Date Completed: 9-22-10

CONTENT

The bill would amend the Michigan Liquor Control Code to do the following:

- Extend to a "master distributor" a requirement that a manufacturer and outstate seller of wine grant a sales territory to wholesalers.**
- Delete a provision allowing a sales territory to be granted to more than one wholesaler.**
- Prohibit the granting of a sales territory to more than one wine wholesaler, except under certain circumstances.**

The bill also would delete provisions under which an authorized distribution agent who becomes a licensed wholesaler may not be appointed to sell a brand of wine in a county for which a wholesaler has been appointed, and a wholesaler who becomes an authorized distribution agent may not sell a brand of wine to a retailer in a county for which another wholesaler has been appointed.

Under the Code, a manufacturer and an outstate seller of wine must grant to each of their wholesalers a sales territory within which the wholesaler is a distributor of the manufacturer's or outstate seller's specified brand or brands of wine. The territory must be agreed upon between the wholesaler and the manufacturer or outstate seller. Under the bill, these provisions would apply to a manufacturer, an outstate seller of wine, and a master distributor. "Master distributor" would mean a wholesaler that acts in the same or similar capacity as a wine maker, wine manufacturer, or outstate seller of wine for a brand or brands of wine to other wholesalers on a regular basis in the normal course of business.

The bill would delete a provision that allows a manufacturer or outstate seller of wine to grant the right to sell a specified brand or brands in a sales territory to more than one wholesaler (a practice sometimes called dualing). Under the bill, beginning June 1, 2010, a manufacturer, outstate seller of wine, or master distributor could not grant the right to sell a specified brand or brands of wine in a sales territory to more than one wine wholesaler. A master distributor could not itself distribute a specified brand or brands of wine in the same sales territory in which that master distributor had granted the right to distribute that specified brand or brands of wine in that sales territory to another wine wholesaler.

These restrictions, however, would not prohibit a manufacturer of wine, an outstate seller of wine, or a master distributor from continuing or renewing an agreement with a wholesaler for a specified brand or brands for any county or part of a county in which more than one wholesaler had an agreement with the manufacturer, outstate seller, or master distributor

in effect on June 1, 2010, if the wholesaler had an agreement to distribute the brand or brands of wine in that area and had been a master distributor or actively selling that brand or brands to a retailer in that area on that date.

The bill also would not prohibit a wholesaler from selling or transferring its distribution rights, or prohibit a manufacturer of wine, outstate seller of wine, or master distributor from approving the sale or transfer of a wholesaler's distribution rights to another wholesaler, if the selling or transferring wholesaler, or any of its predecessors, had the right to distribute that brand or brands of wine in that county or part of the county and had been actively selling that brand or brands to a retailer in that area on June 1, 2010, or had been acting as a master distributor for that county or part of the county on that date.

Under the Code, after September 24, 1996, an authorized distribution agent or an applicant to become an authorized distribution agent who directly or indirectly becomes licensed subsequently as a wholesaler may not be appointed to sell a brand of wine in a county or part of a county for which a wholesaler has been appointed to sell that brand under an agreement required by the Code. A wholesaler who becomes an authorized distribution agent may not sell a brand of wine to a retailer in a county or part of a county for which another wholesaler has been appointed to sell that brand under an agreement required by the Code, unless the wholesaler was appointed to sell and was actively selling that brand to retailers in that area before September 24, 1996, or unless the sale and appointment are the result of an acquisition, purchase, or merger with the existing wholesaler that was selling that brand to a retailer in that county or part of that county before that date. The bill would delete those provisions.

MCL 436.1205 & 436.1307

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.