

# Legislative Analysis



## AMEND LIQUOR CODE: SECONDARY LOCATION PERMITS AND RELATED AMENDMENTS

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

**House Bills 4895 as introduced**  
**Sponsor: Rep. Aric Nesbit**

Analysis available at  
<http://www.legislature.mi.gov>

**House Bill 4896 as introduced**  
**Sponsor: Rep. Ray A. Franz**

**Committee: Regulatory Reform**  
**Complete to 10-28-15**

### SUMMARY:

House Bills 4895 and 4896 would amend Sections 541 and 533, respectively, of the Michigan Liquor Control Code. These sections both deal with specially designated merchant (SDM) and specially designated distributor (SDD) licenses. Both bills would take effect 90 days after the date each is enacted, and are tie-barred, meaning that neither can take effect unless both are enacted.

A specially designated merchant (SDM) license allows sales of beer and wine for off-premises consumption. A specially designated distributor (SDD) license permits the sale of spirits for off-premises consumption.

**House Bill 4895** would allow a merchant who holds a specially designated merchant (SDM) license at a location where there are fuel pumps to obtain a secondary location permit from the Michigan Liquor Control Commission (LCC) under certain circumstances. The bill also eliminates parking space requirements for SDMs who own/operate motor fuel pumps and reduces the minimum distance between where alcoholic liquor is purchased to where fuel pumps are located from 50 feet away to 5 feet away.

#### Secondary Location

Under the bill, if a specially designated merchant's licensed premises are a primary location, the commission would be able to issue a secondary location permit to the specially designated merchant, as an extension of the SDM license, for the sale of beer, wine, or both, at the secondary location.

The LC would only be able to issue a secondary location permit to an SDM when both of the following apply:

- The holder of the SDM license for the primary location premises, or a subsidiary or affiliate of the license holder, owns or leases the secondary location.
- The holder of the SDM license for the primary location, or a subsidiary or affiliate of the license holder, owns or operates motor vehicle fuel pumps at the secondary location.

An applicant for a secondary location permit would be required to submit an application to the commission in a format provided by the commission, accompanied by an application and initial permit fee of \$100. The application must include a diagram of the secondary location with building dimensions and a depiction of the minimum five-foot distance measurement between the motor fuel pumps site of payment and selection of alcoholic liquor. The secondary location permit would expire on the same date as the SDM license and could be renewed in conjunction with that license by the SDM holder by submitting a permit renewal fee of \$100 and a completed renewal application.

After issuance of a secondary location permit, if a subsidiary or affiliate of the SDM owns or operates the secondary location and the subsidiary or affiliate shares the same ultimate controlling party with that SDM, the secondary location may receive and sell beer, wine, or both under the specially designated merchant's license. The holder of that secondary location permit would be required to prominently display the permit at the secondary location in the point-of-sale area.

After an SDM is issued a secondary location permit, if the licensed premises are a primary location that does not meet the neighborhood shopping center condition, the primary location and the secondary location would be considered one premises for purposes of meeting the \$250,000 minimum inventory threshold currently required in the code.

"Primary location" would mean licensed premises where the site of payment and selection of alcoholic liquor is not less than five feet from that point where motor vehicle fuel is dispensed, and is one of the following:

- The applicant or licensee is located in a neighborhood shopping center composed of one or more commercial establishments organized or operated as a unit that is related in location, size, and type of shop to the trade area that the unit serves and consists of not less than 50,000 square feet of gross leasable retail space.
- The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$250,000, at cost, of those goods and services customarily marketed by approved types of businesses. Though as stated above, once an SDM is issued a secondary location permit, if that SDM's licensed premises are not located in a neighborhood shopping center that allows an exception to the conditions allowing the minimum inventory requirement, that SDM could use the combined value of the inventory at the primary and secondary locations to meet this minimum inventory requirement.

"Secondary location" would mean a business operation of the holder of a SDM license for a primary location, or a subsidiary or affiliate of that license holder, that takes place on real property, that includes at least one building and one or more motor vehicle fuel pumps, and that is located on or adjacent to the primary location. Upon commission approval of the secondary location permit, the secondary location is considered licensed premises and an extension of the licensed primary location.

### **House Bill 4896**

The bill would amend the Michigan Liquor Control Code in the following ways:

- Allow an *applicant* for a license to sell for consumption on the premises to apply for a license as a specially designated merchant (SDM), which is a license that allows sales of beer and wine for off-premises consumption. Currently, the code allows a retail vendor that is already licensed under the act to sell for consumption on the premises to apply for an SDM license.
- Permit an applicant for an SDM license or a retail vendor licensed as an SDM to apply for a license as a specially designated distributor (SDD), a license that permits the sale of spirits for off-premises consumption.
- The paragraph above replaces language that permits an SDD licensee to apply for a license as an SDM. That language would be struck. (SDD licenses are usually held in conjunction with SDM licenses.)

**FISCAL IMPACT:**

A fiscal analysis is in process.

Legislative Analyst: Josh Roesner  
Fiscal Analyst: Paul B.A. Holland

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