

Legislative Analysis



LIQUOR CONTROL CODE: COOPERATIVE ADVERTISING AND INSTANT REBATE COUPONS

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Senate Bill 1181 (H-2) as reported from House committee
Sponsor: Sen. Peter MacGregor
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform
Complete to 12-10-18

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

(Enacted as Public Act 426 of 2018)

SUMMARY:

Senate Bill 1181 would add a new section to the Michigan Liquor Control Code to prohibit *cooperative advertising* and to allow a retailer to offer instant rebate coupons on purchases of alcoholic liquor.

Cooperative advertising would mean a jointly funded effort between licensees or between vendors of spirits. Cooperative advertising between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a retailer or wholesaler would be prohibited, as well as between a wholesaler and a retailer.

The bill would also prohibit the name of a retailer from appearing in the advertising of a manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler.

However, the bill would allow a manufacturer, an outstate seller of beer, or an outstate seller of wine to do any of the following:

- Pay any portion of the cost of painting a truck of a wholesaler.
- Supply a brand logoed decal or advertising mat, or both, to a wholesaler without cost.
- Use the name or logo of the wholesaler of the outstate seller of beer or outstate seller of wine in the advertising of the outstate seller of beer or outstate seller of wine.

The bill would also allow a retailer (e.g., an on- or off-premises licensee) to offer consumers instant rebate coupons for use with purchases of alcoholic liquor. Such coupons issued under the bill would have to comply with all of the following:

- Must state a specific expiration date and specific cash refund value.
- Must not make any alcoholic liquor free. For spirits, only a coupon where the specific cash refund amount did not exceed 35% of the state's minimum shelf price for the products purchased and did not reduce the retail price for any product below \$2.00 a bottle could be issued.
- Could apply to more than one specific product from a manufacturer as long as the manufacturer were specified.
- Must require the purchase of at least one product of alcoholic liquor for redemption. A coupon could also require the retail customer to purchase two or more alcoholic liquor products from the same manufacturer to redeem the coupon.
- Must restrict coupons for spirits to bottles that are 375 milliliters in size or larger.
- Must prohibit a supplier or wholesaler of beer or wine from paying for or participating in the offering of an instant rebate coupon.

Proposed MCL 436.1610d

HOUSE COMMITTEE ACTION:

The House Committee on Regulatory Reform reported an H-2 substitute for the bill. The substitute added provisions regarding instant rebate coupons, as described above.

BRIEF DISCUSSION:

Though departmental rules currently prohibit cooperative advertising between liquor licensees and vendors, it is reported that there have been issues in the past and that some licensees may have been or are running afoul of the law. Placing the prohibition in statute, as the bill would do, both gives the prohibition more weight and also clarifies the prohibition so that, when designing advertising campaigns, industry members and licensees will be clear as to what is allowed and what is not.

The bill would also allow retail licensees to offer instant rebate coupons. These would be coupons that enable consumers to save money at the time of purchase, rather than having to mail in a proof of purchase and wait for a rebate check.

FISCAL IMPACT:

Senate Bill 1181 would not have a significant fiscal impact on any unit of state or local government. The bill would prohibit certain actions, and Section 903 of the Michigan Liquor Control Code provides that a license may be suspended or revoked for a violation of the Code or associated rules and a penalty of not more than \$300 for assessed for each violation. Given the relatively narrow scope of the bill and the population of licensees it would apply to, it is unlikely that a significant number of violations would occur.

POSITIONS:

A representative of the Michigan Brewers Guild testified in support of the bill. (12-4-18)

The following entities indicated support for the bill (12-4-18):

- Michigan Wine Producers Association
- Michigan Wine Institute
- Michigan Beer and Wine Wholesalers Association
- Meijer

The Michigan Liquor Control Commission has no position on the bill. (12-4-18)

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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.