State Notes

TOPICS OF LEGISLATIVE INTEREST

Summer 2012

Overview of the Liquor Control Advisory Rules Committee Recommendations
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Introduction

Executive Order 2011-5 created the Liquor Control Advisory Rules Committee (ARC) in the Office of Regulatory Reinvention (ORR) and charged it with making recommendations to improve Michigan's alcoholic beverage control laws. The ARC published its recommendations on June 29, 2012. In total, the ARC proposed 64 separate recommendations for changes to Michigan liquor control laws, administrative rules, and Michigan Liquor Control Commission (MLCC) policies and procedures.

The recommendations of the ARC are purely advisory in nature. Any recommendations that would require changes to statute still would require legislative action, and any recommendations that would require changes to administrative rules still would have to go through the administrative rules process. Some of the recommendations would require neither statutory nor administrative rule changes, and could be implemented directly by the MLCC.

Summary of Proposed Changes

In total, the ARC proposed 64 separate changes to Michigan's liquor control system. Of these, 24 could be accomplished by the MLCC without any legislative action or rule-making, eight would require rules to be changed, and 31 would require legislation. One of the recommendations (recommendation number 8) is fairly vague and therefore it is unclear whether rules or legislation would be necessary to implement it. Table 1 provides a list of the ARC recommendations categorized by what type of action would be required to adopt each one.

Table 1

Type of Action Required to Implement Recommendation	ARC Recommendation Number
MLCC Action Only	1, 2, 3, 4, 5, 9, 13, 14, 15, 16, 17, 19, 20, 22, 23, 24, 25, 26, 27, 28, 48, 55, 56, 57
Amend Administrative Rules	6, 7, 12, 18, 45, 50, 51, 53
Enact Legislation	10, 11, 21, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40 ,41, 42, 43, 44, 46, 47, 49, 52, 54, 58, 59, 60, 61, 62, 63, 64
Other/Unknown	8

Table 2, which comprises the bulk of this article, provides a summary of each recommendation individually. It is suggested that anyone interested in the details of each recommendation read the original report produced by the ORR and the ARC.[1]

[1] http://www.michigan.gov/documents/lara/ORR_LCC_ARC_Recommendations_391015_7.pdf

Generally, there are five main categories for the ARC recommendations. These categories are subjective, and not all of the recommendations naturally fall into one of them, but they may help with understanding the set of recommendations as a whole.

The first of these categories consists of recommendations to change MLCC operations; this category includes recommendation numbers 1-5, 19, and 22. All of these recommendations could be implemented without any action from the Legislature as they simply would modify existing MLCC operational protocol. Recommendation number 3, however, would require action by the Department of Technology, Management, and Budget to remove the requirement that visitors to the MLCC main office be accompanied by an escort. The other recommendations include the following:

- Encouraging MLCC staff to use e-mail rather than traditional mail when possible.
- Splitting the MLCC Enforcement Division into two parts: investigation and enforcement.
- Encouraging greater use of the "routine" licensing docket.
- Presorting mail so as to give priority to mailed documents that are time-sensitive.
- Using the MLCC Oracle database to create certain forms currently done by hand.
- Expanding cross-training of MLCC staff to help address backlogs.

The second category is recommended changes to the licensing process (not including investigations) for on- and off-premises licensees as well as manufacturers of alcoholic beverages. This category also includes recommendations to change the types of licenses issued by the MLCC. Recommendations 6-15, 29-32, 45, and 46 fall into this category. Unlike the previous category, implementation of these recommendations would require a combination of MLCC action, amendments to administrative rules, and legislation. The specific recommendations include the following:

- Simplifying documents used for licensing and the application closing process.
- Tying conditionally approved licenses to required server training for on-premises licensees.
- Eliminating fingerprinting, final inspections, and requirement for approval of food concession agreements.
- Allowing immediate issuance of certain permits.
- Allowing escrowed licenses to be transferred between counties.
- Allowing banks to hold foreclosed licenses without investigation.
- Providing for a single type of microbrewery/brewpub license as well as the issuance of additional resort and economic development licenses.
- Allowing temporary licensees to purchase from certain in-State manufacturers directly.
- Allowing festivals for wine and spirits, in addition to beer.

The third category is recommended changes to the investigations process associated with licensing. Like the second category, these changes would require MLCC action, changes to rules, and legislation to be implemented. The third category includes recommendation numbers 16-18, 20, 21, and 23-28, and includes the following:

- Eliminating investigations of applicants who already hold a license.

- Eliminating prelicensing verification of finances.
- Removing the requirement that applicants have "verifiable" finances.
- Waiving unnecessary investigations.
- Allowing local units to delegate approval of licenses.
- Conducting minimal investigations, when appropriate.
- Authorizing incomplete applications for investigation rather than issuing a Notice of Deficiency.
- Reviewing application documents as they are received rather than waiting until the application is complete.
- Notifying applicants and their attorneys of any problems related to an investigation.
- Waiving the multistep "old" stock transfer investigations.
- Eliminating present ownership investigations.

The fourth category is recommended changes to the rights and privileges granted to manufacturers and wholesalers of alcoholic beverages. This category includes recommendation numbers 34-44, 47, 48, 50, 59, and 61. Implementation of these recommendations would require both rule-making and legislation. The changes in this category include the following:

- Exempting certain contracts between a wholesaler and a microbrewer or small winemaker from franchise restrictions.
- Changing the statutory definitions of the terms "wine maker", "small wine maker", "small distiller", and "brandy manufacturer" to add certain rights and privileges granted to those manufacturers.
- Adding a new type of license for "farm wine makers".
- Allowing consumers to remove a partially-consumed bottle of wine from the premises of a wine maker.
- Allowing wine makers, small wine makers, farm wine makers, small distilleries, and brandy manufacturers to sell their products at licensed premises owned or operated by the manufacturer or at a private catered event.
- Prohibiting local governments from discriminating against similar manufacturers.
- Allowing representatives from manufacturers and wholesalers to pour samples at festivals and fund-raisers and provide advertising materials that mention specific retailers.
- Granting the same statutory rights and privileges to microbreweries that are currently granted to wine makers.
- Granting microbreweries and wine makers a variety of new statutory rights and privileges.
- Allowing instant redeemable coupons to include more than one size bottle.

The fifth category is recommended changes to the fees received by authorized distribution agents (ADAs). In Michigan, all spirituous liquor is sold to the State by manufacturers, wholesalers, and importers. Before 1997, the State of Michigan owned warehousing facilities where the State's liquor was stored and handled before being shipped to retailers. Public Act (PA) 440 of 1997 transferred these warehousing and distribution responsibilities to three private ADAs. Under PA 440, the State no longer takes physical delivery of liquor, as all handling and distribution are done by the three ADAs in exchange for a per-case fee. Recommendations 55-58 call for increases to the fees paid to ADAs, limiting the number of products offered for sale to create greater efficiency for the ADAs, and establishing a process for increases to per-case fees paid to ADAs in the future.

Finally, several of the recommendations (recommendation numbers 49, 51-54, 60, and 62-64) do not fit in any of the categories. For a summary of each of these recommendations, please see Table 2.

Fiscal Impacts

Overall, the ARC recommendations would have an indeterminate fiscal impact on State and local revenue. Generally, the recommendations would make it easier for applicants to receive licenses, reduce workloads for MLCC staff, and provide for additional rights and privileges for licensees, wholesalers, and manufacturers. To the extent that the ARC recommendations would cause a larger quantity or dollar value of alcoholic beverages to be sold and presumably consumed in Michigan, State finances would stand to benefit from higher tax receipts. The primary source of this revenue would be in the form of additional sales taxes, as well as State excise taxes on beer and wine. Increased sales of spirits would result in greater profits for the State's monopoly on the wholesale of spirits.

On the other hand, increased sales and consumption of alcohol could result in additional costs, both monetary and social. These costs could include health care costs related to the health effects of increased consumption of alcohol, and law enforcement costs related to potentially increased drunk driving. It is not certain that the ARC recommendations would result in these increased costs, but the potential exists.

Table 2 provides an overview of each of the ARC recommendations. It should be noted that the "Fiscal Impact" column relates only to State and local governments based on a preliminary analysis of the ARC recommendations. The column does not address the effects of the recommendations on other concerned stakeholders such as licensees, distributors, manufacturers, and consumers. For fiscal impacts that affect State finances, there are generally two types specified: operational costs and increased/reduced revenue.

Operational costs are changes in the MLCC's operating budget. The MLCC is entirely funded from three State restricted fund sources: the Liquor Purchase Revolving Fund (LPRF), Liquor License Revenue, and the Direct Shipper Enforcement Revolving Fund. Of these restricted funds, only the LPRF lapses to the General Fund at the end of the fiscal year. This means that changes having a fiscal impact on the MLCC do not necessarily have a fiscal impact on the State at large. Over time, however, it is possible that long-term savings could result in shifting more of the MLCC's budget to the two restricted funds that do not lapse, allowing additional LPRF revenue to lapse to the General Fund.

Increased/reduced revenue changes are those that could result in changes to the amount of alcoholic beverages sold. Changes in the dollar amount or volume of sales would alter the amount of sales and excise tax revenue received by the State. While it is difficult to predict whether a given ARC recommendation would affect the volume of sales or the dollar value, it is important to differentiate between the two from a State revenue standpoint. For beer and wine, changes in sales in terms of dollar value only affect the amount of sales tax revenue collected.

This is because State excise taxes on beer and wine are calculated on a per-gallon basis, so if a consumer purchased a $4 six-pack of beer containing six 12-ounce containers, the price would include an excise tax of approximately 11 cents. The consumer would pay the same excise tax on a $10 six-pack containing six 12-counce containers, as the excise tax does not take into account the purchase price of the beer. However, the $4 six-pack would be subject to sales tax of 24 cents and the $10 six-pack would be subject to sales tax of 60 cents, as sales tax is always calculated as 6.0% of the sale price. The excise tax on wine in Michigan is 51 cents per gallon[2], so a similar comparison could be made using two identically sized bottles of wine costing different amounts. For spirits, most State taxes and markups are based on the wholesale price, so changes in the volume purchased and the dollar value would affect State revenue similarly.

Conclusion

The recommendations recently submitted by the Liquor Control ARC contain changes to many parts of Michigan's liquor control milieu. The recommendations are purely advisory in nature; any changes to statute would have to be made by the Legislature, and any rules changes would have to go through the rule-making process. Many of the changes recommended by the ARC would not require legislation or rules, so these changes could be implemented by the Michigan Liquor Control Commission without legislative action. Overall, the changes likely would have a positive fiscal impact on State finances, primarily from increasing efficiency within the MLCC and increasing the sale and consumption of alcoholic beverages in Michigan. While an increase in sales of alcoholic beverages would benefit State revenue, however, it also could have undesirable results such as increased health care and law enforcement costs.

[2] This rate is for all wines containing 16.0% alcohol by volume (ABV) or less. For wine with an ABV above 16.0%, the tax is approximately 76 cents per gallon.

Table 2

Summary of ARC Recommendations				
Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
1	MLCC Staff	Increase use of e-mail communications versus mail communication. Currently, mail is commonly used for correspondence with applicants, investigators, law enforcement, and local governing bodies.	No	State: Positive – MLCC Ops. Local: Positive
2	MLCC Enforcement Division	Separate the Enforcement Division into two sections: Licensing Investigation and Violation Enforcement. Currently, investigators are responsible for both functions, which can create conflict or inefficiencies.	No	State: None Local: None
3	MLCC Staff and Dept. of Technology, Management, & Budget (DTMB)	Eliminate the DTMB-required escorts for visitors to the MLCC's Lansing office in the State Secondary Complex. Currently, any visitors to the MLCC must be escorted by MLCC staff, which costs the Commission time and productivity of employees.	No	State: Positive – MLCC Ops. Local: None
4	MLCC Staff	Treat incoming mail documents differently depending on the level of their importance. Currently, all mail is treated equally by the mail system. In some cases there are time-sensitive documents that are treated the same way as documents that are not time-sensitive.	No	State: Negative – may require additional handling and sorting of mail Local: None
5	MLCC Licensing	Increase use of "routine" licensing docket. Allow Licensing Division analysts to expand the types of applications submitted for the Commission's review under the "routine" docket. "Routine" docket applications have a less detailed accompanying write-up and take less staff time to process.	No	State: Positive – MLCC Ops. Local: None
6	Brewers, MLCC Licensing	Allow brewers to submit to the MLCC the same forms they are required to submit to the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB). Currently, brewers must submit a set of forms to the TTB and then submit the same information on different forms to the MLCC.	No – amend rule 436.1103	State: Negative – adapting MLCC procedures to use TTB forms could have some up-front costs. Once procedures are adapted there should be no ongoing costs. Local: None

Summary of ARC Recommendations				
Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
7	Local Law Enforcement, Local Governments and On- and Off-Premises Licensees	Rescind the rule requiring that local law enforcement officials certify an applicant's compliance with local building, health and zoning regulations. Require applicant to obtain the proper clearances with building, health and zoning authorities. Currently, rules require that law enforcement fulfill these responsibilities even though they may lack the jurisdiction and expertise to do so.	No – rescind rule 436.1003	State: None Local: Positive
8	MLCC Licensing, License Applicants	Simplify the application closing process by cross training staff and eliminating some closing requirements. Examples of closing requirements to eliminate: financial verification, stock issuance verification, and final inspection.	Possibly – the rec. only mentioned three closing requirements to be eliminated	State: Indeterminate – cross-training staff would result in additional costs to the MLCC. Eliminating closing requirements would save MLCC staff time. Local: None
9	MLCC Licensing, License Applicants	Require verification of stock or membership issuance in the final closing process only if the applicant has not already submitted the information as part of the application process.	No	State: Positive – MLCC Ops. Local: None
10	MLCC Licensing, On-Premises License Applicants	Expand the term "conditionally approved licensee", which is already used in statute. Ensure that conditionally approved licenses are tied to the server training requirements in statute. Currently, it is not clear that conditionally approved licenses have server training requirements. This has led to a number of violation hearings that could be avoided if the statute were clearer.	Yes – amend MCL 436.1501	State: Positive – MLCC and Michigan Administrative Hearings System (MAHS) could save money on unnecessary hearings. Local: None
11	MLCC Licensing, License Applicants.	Eliminate fingerprinting requirements. Instead, have background checks run on LEIN, NCIC, or ICHAT in cases where it is deemed necessary. Currently, all general partners, corporate shareholders holding 10% or more stock, and members holding 10% or more membership interest in an limited liability company (LLC) are fingerprinted.	Yes	State: None Local: None
12	MLCC, On-Premises Licensees	Eliminate requirement that food concession contracts be approved by the Commission. Create requirements for the licensee to follow and have the Enforcement Division investigate any red flags or complaints.	No – amend rule 436.1433	State: Positive – MLCC Ops. Local: None

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Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
13	MLCC, Licensees	Allow for immediate issuance of certain permits that do not require local law enforcement or local government approval. Permits that would fall under immediate issuance would be: Sunday sales/Sunday morning sales, additional bar permits, specific purpose permits, spirit consumer sampling event licenses, and beer & wine sampling event permits.	No	State: None Local: None
14	MLCC, Local Governments	The Commission should be more flexible on local governing body resolutions in allowing conditional resolutions. Currently, the Commission does not allow local governments to place conditions on local resolution approvals.	No	State: None Local: None
15	MLCC Licensing, MLCC Enforcement, Local Governments	Eliminate most final inspections except in cases where Commission approval requires specific inventory requirements. Final inspections should be done by the local jurisdiction responsible for issuing a Certificate of Occupancy. The Enforcement Division could do a follow-up check, if necessary.	No	State: Positive – MLCC Ops. Local: Indeterminate – To the extent that final inspections could be done concurrently with the issuance of a Certificate of Occupancy, local governments would not experience significant increased costs.
16	MLCC Enforcement, Licensees	Eliminate investigations of license applicants who already hold a license with the Commission. Currently, license holders who apply for another license have to submit various documents that presumably have been examined during the issuance process for the license they already hold.	No	State: Positive – MLCC Ops. Local: None
17	MLCC Enforcement, License Applicants	Eliminate prelicensing verification of finances by the Commission, as a verification is already done by the Enforcement Division.	No	State: Positive MLCC Ops. Local: None
18	License Applicants	Remove the requirement that license applicants have "verifiable" finances. Allow applicants to instead use a sworn affidavit attesting to the source and legitimacy of funds used in the licensed businesses. The requirement that finances be verified can cause delays in the licensing process as applicants often have to find documents that may be years old and may have been discarded.	No – amend rule 436.1105	State: None Local: None

Summary of ARC Recommendations				
Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
19	MLCC staff	Use MLCC Oracle database to create certain forms from data already contained in the database. Currently, MLCC staff creates the forms that are a necessary part of the investigation package instead of letting Oracle do it.	No	State: Positive – Generally this recommendation would result in increased efficiency for the MLCC; however, it is unknown if there would be any up-front costs to using the Oracle database in the prescribed manner. Local: None
20	MLCC Enforcement, Licensees	Waive unnecessary investigations. Examples include investigations of: corporate stock interest transfers to existing shareholders or back to the corporation itself, an LLC transferring membership interest to an existing member or back to the LLC itself, and a sole proprietorship transferring to an LLC.	No	State: Positive – MLCC Ops. Local: None
21	Local Governments	(1) Allow local legislative bodies to delegate the approval of licenses to the clerk or other administrative officer. (2) Require local governments to follow the same process, use the same forms as the Commission and provide a reason for denials. Law enforcement should be part of the checklist. (3) Develop an incentive program to allow local units that complete their review of a license within 30 days to keep 100% of their share of the license fee. The share would be reduced on a sliding scale if it took longer than 30 days. The share would be a maximum of 30% if the review took longer than 89 days. (4) Local license application fees should not be higher than those charged by the Commission.	Yes	State: Indeterminate – (3) could potentially reduce the share of license fees that are shared with locals. It is assumed that any fees not shared with locals would be kept by the State. Local: (1) – Positive (2) – Negative, as locals would be required to provide additional documentation following a denial. (3) – Negative. The sub-recommendation does not provide for the potential to increase the fees shared with locals, but does provide a mechanism to reduce those shared fees. (4) – Indeterminate. It is unknown whether there are local governments that charge fees higher than those

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Rec. No.	Affected Group	Description	Legislation Required?	Fiscal Impacts
				charged by the MLCC. In those cases, this sub-recommendation would have a negative fiscal impact on the affected local units.
22	MLCC staff	Expand cross training of MLCC staff to help avoid backlogs in license applications	No	State: Indeterminate – There could be some upfront costs to expanding training of employees, but the training could result in increased efficiency of the MLCC. Local: None
23	MLCC Enforcement	Conduct minimal investigations where appropriate. For example, when an LLC adds a new member, the entire LLC, establishment, and current ownership do not need to be investigated.	No	State: Positive – MLCC Ops. Local: None
24	MLCC Licensing	Authorize incomplete applications for investigations rather than issuing a Notice of Deficiency. Currently, a Notice of Deficiency is issued for incomplete applications. This recommendation would allow the application process to continue and have the Enforcement Division obtain any missing paperwork or fees when it conducts the final inspection.	No	State: None Local: None
25	MLCC Licensing	Have Licensing staff review application and investigation components as they are submitted. Currently, Licensing staff does not review applications and related material until all components of the application and investigation are received. This extends the time necessary to process the application or investigation.	No	State: None Local: None
26	MLCC Licensing, MLCC Enforcement	Have investigators notify applicants and applicants' attorneys of any problems related to the investigation. Currently, many investigators do not make these notifications and can cause appeal hearings and application denials that would not have occurred if the applicants had known about and made efforts to rectify any problems identified by the investigator.	No	State: Indeterminate – These notifications would consume staff time, but could result in reduced appeal hearings and denials, which also consume staff time as well as MLCC and MAHS resources. Local: None

Summary of ARC Recommendations				
Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
27	MLCC Licensing	Waive the multistep "old" stock transfer investigations, particularly those involving past transactions where a considerable amount of time has passed. These investigations currently can require documents that an applicant may have discarded or lost due to the time that has elapsed since the transaction occurred. The recommendation calls for a more common-sense approach to investigating old transactions.	No	State: Positive – MLCC Ops. Local: None
28	MLCC Licensing, MLCC Enforcement	Eliminate present ownership investigations. Currently, when a licensee wishes to transfer a business to another entity, both the licensee and the purchasing entity are investigated. The recommendation would call for an investigation only of the purchasing entity unless there were indications of illegal transfers of ownership.	No	State: Positive – MLCC Ops. Local: None
29	Local Governments, On-Premises Licensees	Allow escrowed on-premises licenses to be transferred between adjacent counties for a fee of $10,000. Currently, licenses may be transferred intra-county only.	Yes	State: Positive – MLCC Ops. Local: Indeterminate
30	Banks	Allow banks that hold a security interest in licenses to hold a secured license after foreclosure. Do not require an investigation of a bank holding a foreclosed license.	Yes	State: Positive – MLCC Ops. Local: None
31	Brewpubs, Microbreweries	Replace the current microbrewer and brewpub licenses with a single small brewer's license that combines the rights of the two current licenses. Currently, small beer brewers must choose between being in the business of distributing their beer (microbreweries) or selling their products retail by the glass in a restaurant environment (brewpub).	Yes	State: Positive – Potential increase in tax revenue from beer sales. Local: None
32	Resorts	Amend the Liquor Control Code to annually allow up to 40 nontransferrable on-premises resort licenses where the licensee has invested at least $500,000. Charge a fee of $25,000 for this license. Currently, only five licenses of a type similar to this proposal may be issued each year.	Yes	State: Positive – To the extent that the license fee was sufficient for the issuance of the license, the MLCC would be held harmless financially. Additional on-premises licenses could also result in additional sales, which would increase State tax revenue. Local: Positive – To the extent that these licenses would bring development and accompanying property tax revenue.

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Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
33	On-Premises Licensees	Amend the Liquor Control Code to allow the MLCC to issue economic development liquor licenses in villages and townships. Only businesses in cities can currently apply for economic development liquor licenses.	Yes	State: None Local: Positive – To the extent that these licenses would bring development and accompanying property tax revenue.
34	Beverage Wholesalers, Microbreweries, Small Winemakers	Exempt from the Liquor Control Code's franchise law contracts between a wholesaler and a microbrewer or small winemaker if the manufacturer's volume through the wholesaler comprises less than 3% of the wholesaler's entire book of business as measured by case-equivalents. Currently, it is perceived that wholesalers have undue bargaining power with microbrewers and small wineries.	Yes	State: None Local: None
35	Winemakers	Amend the Liquor Control Code to change the definition of the term "winemaker". The change would add to the definition a variety of rights and privileges granted to winemakers.	Yes	State: None Local: None
36	Small Winemakers	Amend the Liquor Control Code to change the definition of the term "small winemaker". The change would add to the definition a variety of rights and privileges granted to small winemakers.	Yes	State: None Local: None
37	Winemakers	Amend the Liquor Control Code to create a new type of license for "farm wineries". These wineries would be required to use at least a certain percentage of fruit and other agricultural products harvested in Michigan.	Yes	State: None Local: None
38	Winemakers, Consumers	Amend the Liquor Control Code to allow consumers to remove a partially-consumed bottle of wine from a winemaker's premises.	Yes	State: None Local: None
39	Small Distillers	Amend the Liquor Control Code to change the definition of the term "small distiller". The change would add a variety of rights and privileges granted to small distillers.	Yes	State: None Local: None
40	Brandy Manufacturers	Amend the Liquor Control Code to change the definition of the term "brandy manufacturer". The change would add a variety of rights and privileges granted to brandy manufacturers.	Yes	State: None Local: None
41	Brandy Manufacturers	Amend the Liquor Control Code to allow brandy manufacturers to sell their spirits for consumption on any licensed premises of the brandy manufacturer. Currently, small distilleries are allowed to engage in this practice, but brandy manufacturers are not.	Yes	State: Positive – Potential increase in liquor profits and taxes from increased brandy sales. Local: None

Summary of ARC Recommendations

Rec. No.	Affected Group	Description	Legislation Required?	Fiscal Impacts
42	Small Winemakers, Farm Winemakers, Brandy Manufacturers, Small Distillers	Allow small winemakers and farm winemakers to sell wine in a restaurant on or continuous to the facility where the wine is produced. Currently, the statute allows only winemakers to do this. The recommendation also would allow small distillers and brandy manufacturers to charge for samples of their products.	Yes	State: Positive – Potential increase in tax revenue from wine sales. Local: None
43	Winemakers, Small Winemakers, Farm Winemakers, Brandy Manufacturers	Allow winemakers, small winemakers, farm winemakers, and brandy manufacturers to sell their products at the licensed premises of the winery or distillery. Currently, only small distillers are allowed to make these types of sales.	Yes	State: Positive - Potential increase in liquor profits and taxes from increased brandy and wine sales. Local: None
44	Winemakers, Small Winemakers, Farm Winemakers, Brandy Manufacturers, Small Distillers, Microbrewers, Brewpubs	Allow winemakers, small winemakers, farm winemakers, brandy manufacturers, small distillers, brewpubs, and microbreweries to sell their products at private catered events.	Yes	State: Positive - Potential increase in liquor profits and taxes from increased spirits, beer, and wine sales. Local: None
45	Special Licensees, Farm Winemakers, Brandy Manufacturers, Small Distillers, Microbrewers, Brewpubs	Allow special licensees, which are entities holding a license that allows for the sale of alcoholic beverages for a specified period of time, to purchase products from farm winemakers, brandy manufacturers, small distillers, microbrewers, and brewpubs. Currently, special licensees can purchase from winemakers and small winemakers, but not from any of the other small alcoholic beverage manufacturer categories.	No – amend rule 436.582	State: None Local: None
46	Nonprofit Entities	Amend the Liquor Control Code to allow for wine and spirits festivals. Currently, the only types of alcohol-centric festivals allowed under the Code are for beer.	Yes	State: Positive - Potential increase in liquor profits and taxes from increased spirits and wine sales. Local: None

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Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
47	Local Government, Manufacturers	Amend the Liquor Control Code to prevent local governments from enacting ordinances that unreasonably discriminate against similar manufacturers of alcoholic beverages.	Yes	State: None Local: Negative – To the extent that these types of situations exist, local units could be faced with the costs of changing ordinances. The potential for lawsuits also exists, as the recommendation uses the word "similar", which could be subject to different interpretations.
48	Distilleries, Wineries, Breweries, Wholesalers	Allow representatives from distilleries, wineries, breweries, and wholesalers to pour and serve samples of wine and beer at festivals and fund-raisers.	No	State: None Local: None
49	On-Premises Licensees, Off-Premises Licensees, Employees who Furnish Alcohol	Amend statute and rules to protect servers and licensees from liability by having a higher standard of proof regarding serving alcohol to intoxicated persons. Currently, many places in statute and rules say that a server shall not "allow" an intoxicated person to be served or engage in certain other behaviors. The recommendation would change this language to say "knowingly allow" because in some cases customers might be engaging in activities the server is unaware of.	Yes – changes to rules are also necessary	State: None Local: None
50	Off-Premises Licensees, Wholesalers, Suppliers	Allow wholesalers and suppliers to provide to retailers advertising and marketing material that has a specific reference to the retailers.	No – amend rules 436.1315 and 436.1319	State: None Local: None
51	On-Premises Licensees	Amend rules to prevent on-premises licensees from having to close an hour early when switching from Standard Time to Daylight Time. Currently, the way the rules are written, on-premises licensees lose a half hour when switching from Standard Time to Daylight Time.	No – amend rule 436.1403	State: None Local: None
52	Off-Premises Licensees	Allow off-premises licensees to extend credit to customers if the licensees so desire.	Yes	State: None Local: None
53	Wholesalers, Suppliers, On-Premises Licensees	Remove all prohibitions on secondary use items that are provided by suppliers. Rules currently allow the MLCC to approve the use of logoed items of secondary use in an on-premises establishment. These approvals are rare, however.	No – amend rule 436.1321	State: None Local: None
54	Off-Premises Licensees, On-Premises Licensees	Amend the Liquor Control Code to allow on-premises licensees to purchase more than 9 liters of spirits per month from off-premises licensees.	Yes	State: None Local: None

Summary of ARC Recommendations				
Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
55	MLCC, Off-Premises Licensees, On-Premises Licensees, Authorized Distribution Agents	The MLCC should use its existing authority to increase the per-case fee that authorized distribution agents (ADAs) receive. These fees were originally indexed to inflationary costs, increasing an average of 2.8% annually from 1997 to 2006. The fees have not been raised since then. The MLCC could raise the fees by $0.53 per case with its existing authority, which would raise the fee to $7.50 per case.	No	State: None Local: None
56	State Administrative Board, Off-Premises Licensees, On-Premises Licensees, ADAs	The State Administrative Board should use its existing statutory authority to increase the maximum per-case fee that ADAs receive. Currently, the maximum is $7.50 per case.	No	State: None Local: None
57	MLCC, Consumers, Licensees	The MLCC should consider limiting the number of spirituous beverages available for sale in Michigan. Currently, over 5,400 stock-keeping units (SKUs) for different products and different-sized products are distributed, which has created a costly distribution system.	No	State: Indeterminate – Reducing the number of products available could reduce sales; however, it is possible that consumers would seek alternative products if others were eliminated. Local: None
58	ADAs, Off-Premises Licensees, On-Premises Licensees	Develop a statutory process for raising the ADA fees. The process should have an appropriate index to establish the fee cap and a service-linked metric to set the actual fee.	Yes	State: None Local: None
59(1)	Microbreweries	Include microbreweries in provisions currently apply to small winemakers. This recommendation includes: Adding microbrewers to the special licensee source of purchase options, changing the definition of "microbrewer" to allow for the same access to market as is currently provided for in the definition of "wine maker", and adding microbreweries to the classes of manufacturers allowed to sell directly to consumers and in restaurants owned by the microbrewer.	Yes	State: Positive – Potential increase in tax revenue from beer sales. Local: None
59(2)	Microbreweries	Include microbreweries in proposed changes approved by the committee for wineries and micro distillers. This recommendation includes allowing microbreweries to: (1) Export beer to licensees and consumers subject to the laws and regulations of the receiving state. (2) Sample and sell by the glass, bottle, case or keg, beer produced in-State for consumption on- or off-premises at the production site and at licensed off-site hospitality rooms.	Yes	State: Positive – Potential increase in tax revenue from beer sales. Local: None

Summary of ARC Recommendations				
Rec. No.	**Affected Group**	**Description**	**Legislation Required?**	**Fiscal Impacts**
		(3) Operate hospitality rooms singly or jointly with other Michigan producer licensees. (4) Provide samples complementary or for a fee. (5) Sell beer in a restaurant owned or operated in conjunction with the brewery. (6) Sell alcoholic beverages not produced by the microbrewery if purchased through an ADA. (7) Sell beer for off-premises consumption at farm markets.		
60	MLCC	Upgrade the MLCC information technology system.	Yes – an appropriation for upgrades to the system was included in the FY13 budget.	State: None – An appropriation of $2.0 million for this upgrade was included in the FY 2012-13 budget. Local: None
61	Suppliers, Off-Premises Licensees	Allow instant redeemable coupons (IRCs) to include more than one size and allow them to read "750ml or larger". Currently, IRCs can be used only for a single size bottle of spirits.	Yes	State: None Local: None
62	All Licensees, Local Law Enforcement, MLCC	Levy a $20 surcharge on all license fees that would support an education and enforcement competitive grant program administered by the MLCC.	Yes	State: Negative – The MLCC would be responsible for some small administrative costs related to this grant program. Local: Local law enforcement could benefit from these grants.
63	Suppliers, Distributors	Shift collection of excise tax on beer and wine produced outside of Michigan from the supplier to the distributor to increase efficiency.	Yes, and rule 436.1621	State: None Local: None
64	Gas Stations	Require gas station wishing to hold a specially designated merchant (SDM) license to sell beer and wine to have a minimum inventory of $50,000, not counting alcohol and gasoline. Currently, this threshold is $250,000.	Yes	State: None Local: None