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## LIQUOR CONTROL ACT RECODIFICATION

**House Bill 4454 as enrolled  
Public Act 58 of 1998  
Sponsor: Rep. Ilona Varga**

**House Committee: Regulatory Affairs  
Senate Committee: Economic Development,  
International Trade and Regulatory  
Affairs**

### **Third Analysis (7-9-98)**

#### ***THE APPARENT PROBLEM:***

Since its enactment in 1933, the Michigan Liquor Control Act has been amended numerous times. Though the act regulates beer, wine, and spirits from manufacturing to distribution to retail sale, the act today is a hard to read hodge podge of provisions with little organization as to subject matter. Therefore, a person wishing to find provisions pertaining to the regulation of beer would find those provisions scattered throughout most of the act, rather than concentrated in a chapter or two.

In addition, changes in other statutes and case law, attorney general opinions, and practices by the Liquor Control Commission have rendered various existing provisions in the act obsolete. For example, language in the act taxes wines manufactured in Michigan from Michigan-grown grapes and fruits at a significantly lower tax rate than other wines. However, Attorney General Opinion 6724 of 1992 ruled that the tax preference shown to Michigan wine manufacturers discriminated against interstate commerce in violation of the Commerce Clause of the U.S. Constitution and was therefore void. In addition, a General Agreement on Tariffs And Trades (GATT) Panel Report, also in 1992, concluded that the preferential tax reduction on Michigan wines discriminated against Canadian wines in violation of GATT. Though the commission has since taxed wines equally, the obsolete language has remained in the act. Legislation has been proposed to restructure the current act into a new act that would organize provisions into chapters according to subject matter, delete obsolete provisions, and update language and terminology. In addition, some have proposed adding language to the liquor code to allow local governments more authority to regulate topless entertainment.

#### ***THE CONTENT OF THE BILL:***

The bill would repeal the Michigan Liquor Control Act (MCL 436.1 et al). and replace it with the Michigan Liquor Control Code of 1998. The bill primarily reorganizes current provisions into chapter form by organizing the sections according to subject matter. The chapter breakdowns are as follows:

##### Chapter 1

Short title; definitions. (Note: a specially designated distributor license [SDD] permits a licensee to sell spirits and mixed spirit drinks in the original package for off-premise consumption; a specially designated merchant license [SDM] permits a licensee to sell beer and/or wine for off-premise consumption.)

##### Chapter 2

Terms, conditions, limitations, and restrictions for lawful manufacture, sale, possession, or transportation of alcoholic liquor; right, power, and duty of commission to control alcoholic beverage traffic and traffic in other alcoholic liquor; unreasonable discrimination against Michigan manufacturers prohibited; enforcement of act and rules, wilful neglect or refusal of officer to perform duties as misdemeanor, penalty; sale, delivery, or importation of alcoholic liquor; requirements and exceptions regarding original purchase and importation into state of spirits for sale, use, storage, or distribution; exceptions to act; authorized distribution agents (ADAs); appointment of ADAs; limitations of ADAs; delivery of orders by ADAs; availability of contracts for review by commission; penalty for violations of act by ADAs; ADA selling spirits to on-premise

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licensees; ADA making good-faith effort to hire former state employees; complaint process for former state employees against ADAs for unfair hiring practices; payments to vendors to offset costs of warehousing and delivery of spirits; creation and powers of Michigan Liquor Control Commission (LCC); selection, duty, and responsibility of LCC business manager; LCC assistants and employees; rules and regulations, public hearings; investigations and inspections by commission; seizure and use of evidence of violation; examining or copying books, records, and papers; issuance of subpoena; oath or affirmation; court order, contempt; fees of witnesses; service of subpoena; seal, orders, certified copies; LCC branch offices; revolving fund; interest of LCC members or employees; civil liability of commission or members; establishment of state liquor stores; licensing of hotels and merchants to sell spirits for off premise consumption, rules, price; handling of liquor by LCC, gross profit, leasing and purchasing power; uniform alcoholic liquor prices fixed by commission; prices for sale of alcoholic liquor to hospitals, charitable institutions, and military establishments; discount for certain sales of alcoholic liquor; search warrants.

### Chapter 3

Taxes on wine and mixed spirit drink; sacramental wines; incorporation of farm mutual cooperative wineries, licensing, fee, certification of stockholders or members, manufacture and sale by corporation; grape and wine industry council; regulation of wine industry; definitions; prohibited conduct; servicing impacted sales territory; termination, cancellation, nonrenewal, or discontinuance of agreement; burden; notice; test marketing; sales and distribution; transfer of wholesaler's business; arbitration; costs; default; waiver; good faith dispute settlement; agreement binding on successor to supplier; agreements to which section applicable; civil action for actual damages; injunctive relief; procedure for resolving violation; sales territory.

### Chapter 4

Regulation of beer industry; wholesalers granted exclusive sales territory by manufacturer and outstate seller of beer and malt beverages; definitions; prohibited conduct; servicing impacted sales territories; termination, cancellation, nonrenewal, or discontinuance of agreement, burden, notice; test marketing; sales and distribution; transfer of wholesaler's business; compensation for diminished

value of wholesaler's business; arbitration, costs, default, waiver; good faith dispute settlement; agreement binding on successor to supplier; civil action for actual damages; liability, declaratory judgment, exemplary damages, injunctive relief; procedure for resolving violations; brewpub license, renewal and revocation; taxation, exemptions, rebate; barrel as containing 31 gallons; rule to prohibit licensees purchasing or selling beer manufactured in designated states; tax credit for eligible brewer.

### Chapter 5

Licenses; expiration of full-year license; license as contract; operation of establishment upon death of licensee; part-year license; transfer of license; approval of application; request for revocation of license or permit by local legislative body; hotels; zones and anniversary dates for renewal of licenses; nontransferable tavern licenses for concessionaires at state fairgrounds; proximity of contemplated location to church or school building; transfer to location farther from church or school; class "C" or class "B" hotel license for state-owned airport; license for publicly owned airport; municipal civic center or civic auditorium; hotel license for hotels within Mackinac Island state park; license for sale of alcohol at Presque Isle harbor marina; license issued to governing board of college or university; license for certain publicly-owned golf courses; national or international sporting event licenses; property or establishment situated in or on state-owned land; ineligibility of law enforcement officers; license fees; special license for nonprofit charitable organizations; transfer of license or stock in licensed corporation; quota for public licenses and resort licenses; additional licenses for certain establishments; license for certain events at a public university; economic development factors; exceptions for certain veterans and airports; escrowed licenses; vendor as specially designated merchant (SDM); specially designated distributor (SDD) as SDM; vendor as person; classes of vendors permitted to sell alcoholic liquors at retail; sale of wine by wine maker; conditions for wine tastings; marina as SDM or SDD; motor vehicle fuel pumps; disposition and use of retailers' license and license renewal fees, special fund.

### Chapter 6

Wholesale licensee or applicant for wholesale license as individual, partnership, limited partnership, or corporation, and prohibitions; interest in business of other vendor prohibited; prohibition on placing certain

stock in portfolio under arrangement of trust agreement and selling participating shares within state; conditions for brewers to acquire, develop, sell, lease, finance, maintain, operate, or promote real property occupied or to be occupied by another vendor; denial, revocation, or suspension of license; wholesaler as party to arrangement or contract prohibited; prohibitions to SDD or SDM license; brewer as SDM; sales or deliveries by wholesaler; aiding or assisting other vendor prohibited, exception; refund or credit of tax paid on wine, mixed spirit drink, or beer; conditions, time limitation, form and contents of claim, and supporting evidence; removal or destruction of damaged wine, beer, or mixed spirit drink; rebate of tax paid on wine or mixed spirit drink.

#### Chapter 7

Selling or furnishing alcohol to minor; penalties for violations; enforcement against licensee; consent of parent or guardian in undercover operation; defense in action for violation; annual report by commission; minor transporting or possessing alcohol in motor vehicle as misdemeanor; process of impounding vehicle as result of arresting officer's complaint; rights of lienholder; transfer of title to avoid act as misdemeanor; purchase, consumption, or possession (or attempt) of alcohol by minor; fines and sanctions; furnishing fake ID to minor; chemical breath analysis; notice to parent or guardian; exemptions; power of law enforcement officers witnessing violation of act's prohibition regarding minors to stop and detain person; "appearance ticket" defined; plea or denial of allegations; sales to intoxicated persons prohibited.

#### Chapter 8

Granting or renewal of license; bond; providing alcohol to minor or visibly intoxicated person; actions for damage or personal injury; available defenses for licensee; rebuttable presumption; section as exclusive remedy for money damages against licensee; civil actions subject to Revised Judicature Act; retailer or applicant for retail license, proof of financial responsibility; naming insurer or surety as defendant prohibited, bankruptcy, policies and bonds to be continued from year to year; cancellation of liquor liability insurance; exemption; service of process for suit to enforce liability; notice of termination or cancellation of contract or policy by insurer; payment of judgment and costs, time limit, failure to pay, punitive damages, action against insurer; coverage and conditions of insurance policy; false statement or

breach of authority or cancellation of insurance by insured; defense of a civil action by retail licensee; prohibit commission-based compensation of on-premise employees.

#### Chapter 9

Compliance with code required; suspension or revocation of license, penalties; hearing procedure; institution of criminal prosecutions; defenses; appointment of agents to hear violation cases, authority, ineligibility to serve on commission; commission prohibited from taking action against retail licensee for providing alcohol to minor unless local law enforcement officers or state police take action against minor, exceptions; seizure of alcohol and forfeiture of privileges upon revocation of license; penalties for violations of act; legislative intent; collection of and failure to pay taxes; unlicensed premises or place; unlawful consumption of alcohol; exceptions; section 10019 neither repealed or amended; "consideration" defined; possession or consumption of alcohol on public highway or in park, place of amusement, or publicly owned area; authority of local governmental unit or state department or agency to prohibit possession or consumption of alcohol; liability of vendor; penalty for forging documents, labels, or stamps; sale or trade of ceramic commemorative bottles by collector; authority of commission to regulate warehouse receipts for alcoholic liquor; liberal construction of act.

#### Chapter 10

Armories, air bases, naval installations and state military reservation; false and fraudulent statements; adulterated and misbranded liquors, refilling bottles, exceptions; seizures by execution; bankruptcy, payments; posting printed price list; cash sales at state liquor stores to licensees, exceptions; awarding unopened alcoholic liquor pursuant to lawful fund raising activity; sterilization of glasses; sales in hotel rooms; purchase or serving of food; no removing of liquor from the premises where sold for on-premise consumption; pinball machines; giving alcohol away; samplings or tastings of alcohol; sales to intoxicated persons prohibited; sampling or tasting of alcohol generally.

#### Chapter 11

Sale of spirits and mixed spirit drink, in addition to beer and wine, for on-premise consumption allowed through referendum by local governmental unit;

procedure of submission of question to electors; referendum for annexation of territory to city prohibiting such sale; application for and approval of licenses for on-premise consumption of spirits and mixed spirit drink after approval by electors: county option for manufacture and sale of alcohol, form of ballot, notice of prohibition; adoption of ordinance prohibiting retail sale of alcohol; referendum for Sunday sale of beer and wine, petition, form of ballot; selling at retail, giving away, furnishing, or buying spirits or mixed spirit drink on Sunday for on- or off-premise consumption; resolution for certain Sunday sales; petition; form of ballot; sales of alcohol prohibited from December 24 to 26; legislative bodies authorized to prohibit sale of alcohol on certain days; additional fee for approved Sunday sales of spirits or mixed spirit drink.

Chapter 12

Specific tax on spirits, proceeds to general fund, tax refund in case of repeal of section; special tax on spirits, proceeds to state school aid fund; specific tax on spirits consumed off premises, proceeds to liquor purchase revolving fund; legislative finding and declaration; specific tax on sale of spirits for on- and off-premise consumption, proceeds to state convention facility development fund, limitation on effective date, construction of section.

Chapter 13

Repealed sections.

\* \* \*

In addition to the reorganization of sections, the bill would make the following substantive changes:

\* The bill would create a topless activity permit for on-premise licensees, in addition to the dance and entertainment permits currently issued under departmental rules. Under the bill, an on-premises licensee could not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other public performances without an entertainment permit from the LCC. In order to allow customers to dance, a licensee would have to have a dance permit. Topless activity would be banned without a topless activity permit in those counties with a population of 95,000 or less. However, a local unit of government would not be prevented from enacting an ordinance to prohibit topless activity or nudity on licensed premises within its jurisdiction. "Topless

activity" would include entertainment or work-related activity performed on the licensed premises by the licensee; an employee, agent, or contractor of the licensee; or a person acting under the control of or with the licensee's permission in which the female breast area (including the nipple or more than one half of the breast area) was directly exposed or exposed by means of see-through clothing or a body stocking. "Nudity" would be defined as exposure to public view of the pubic region, anus, buttocks, genitals, or breast area in whole or in part.

The commission could issue a combination dance-entertainment permit or topless activity-entertainment permit. Activities permitted under the permits could only be offered on the premises during those hours when it is legal to sell and consume alcohol. Permit fees would remain the same as for those issued under R 436.1407 of the Michigan Administrative Code. Dance, entertainment, and topless activity permits would have to be approved by the commission, the local legislative body of the governmental unit with jurisdiction over the establishment (except for cities with a population of 1 million or more), and the chief law enforcement officer of the jurisdiction within which the premises was located.

If a licensee who held a dance or entertainment permit under existing provisions in the administrative rules extended the activities conducted under that permit after January 1, 1998 to include topless activity, he or she would have to apply to the commission for a topless activity permit under the bill's requirements. In other words, those establishments offering topless activity prior to January 1, 1998 under a permit issued under administrative rules would be grandfathered in. Only those establishments offering topless activity after January 1, 1998 would have to apply for a topless activity permit. A permit would not be required for musical performances including singing, piano, or other types of musical instruments or the broadcast of a television transmission from a federally licensed station.

\* The bill would specify that references to the repealed Michigan Liquor Control Act (MCL 436.1 to 436.58) would be considered to be a reference to the newly recodified Michigan Liquor Control Code of 1998, that editorial changes in the recodification not be construed as changes in meaning, that departmental rules in effect at the time of the bill's enactment continue to be in effect, and that commission members appointed under the repealed act continue to serve out their terms.

\* The amount of alcohol a person can bring into the state for his or her own use would be increased from 288 ounces to 312 ounces to correspond to current packaging specifications.

\* Authorized distribution agents would have to provide retailers with access to a computer application that had the capability to determine whether certain spirits were currently available for delivery.

\* The act requires that the minimum order of spirits to an ADA by a licensee be set by the commission and be a sufficient number of bottles to make up at least one case but not more than two cases. The bill would specify that the minimum order could not be more than two cases.

\* The bill would establish procedures for the delivery of spirits by ADAs to Mackinac Island and other areas that are inaccessible to motor vehicles.

\* Under the act, the commission may issue special licenses to nonprofit organizations. The special license allows the nonprofit group to sell beer, wine, or spirits, typically in concert with a fundraising event such as a millionaire party (Las Vegas Night). In addition to current requirements, the bill would clarify that a person or organization would have to demonstrate an existence separate from an affiliated umbrella organization. If the separate existence was demonstrated, the commission would be prohibited from denying a special license solely by the applicant's affiliation with an organization that was also eligible for a special license.

\* Currently, all money deposited by the commission with the state treasurer is credited to the general fund and available for general fund purposes. To reflect current accounting procedures and practices, the bill would instead specify that all money deposited by the commission would have to be credited either to the revolving fund for expenditures authorized under the act or credited to the general fund for general fund purposes. Also, interest earnings on common cash attributable to the commission's revolving fund would be credited to the revolving fund and available to the commission for administration of the act.

\* The bill would place in statute a provision that is currently in the Michigan Administrative rules that requires the commission to issue only one specially designated distributor (SDD) license for each 3,000 of

population in cities, townships, or incorporated villages.

\* "Person" is currently defined in the act as "any person, firm, partnership, association or corporation". The bill would expand the definition of "person" to include "an individual, firm, partnership, limited partnership, association, limited liability company, or corporation".

\* The bill would specify that rules adopted by the commission would have to be promulgated under the Administrative Procedures Act of 1969 (MCL 24.201 et al).

\* The bill would change "warehouseman" (a license classification that permits a licensee to store alcoholic beverages) to "warehouser".

\* Currently, the act prohibits a person from making false or fraudulent statements to the commission, either orally or in writing, for the purpose of enabling or assisting a person to evade the provisions of the act. The bill would specify that a person making such statements would be subject to certain penalties as prescribed in the act.

\* The act requires that alcohol for consumption on the premises be sold in accordance with a printed price list posted conspicuously in a prominent place on the licensed premises. The bill would require instead that the printed price list be readily available to customers.

\* Currently, the commission is required to set uniform prices for the sale of alcoholic liquor in state liquor stores and by SDDs, with a gross profit return of between 51 and 65 percent. However, a person placing an order for brands that are not manufactured or readily obtainable in the U.S. is responsible for the expense of filling the order, plus a surcharge of at least 46 percent. The bill would instead set the range for gross profit for all types and brands of alcoholic liquor at between 51 and 65 percent.

\* The Department of Agriculture would be responsible for the issuing of tavern licenses to concessionaires at both the Michigan State Fairgrounds and the Upper Peninsula State Fairgrounds. (Executive Order No. 1997 - 13 transferred authority for the State Fair from the director of the Department of Consumer and Industry Services to the director of the Department of Agriculture.)

\* Under the act, the commission could grant 25 additional resort licenses for 1997. If less than 25 resort licenses had been issued, the bill would allow the remaining available licenses to be issued in 1998.

\* The bill would require the LCC chairperson to designate an office for an administrative commissioner's workstation if the member's permanent or temporary residence was within 100 miles of an office in which the commission regularly conducted business.

\* \* \*

The bill would delete the following provisions:

\* In a provision pertaining to licensing hotels and established merchants for the sale of spirits for off-premise consumption, the bill would delete state residency requirements and the requirement for merchants to be established. (Note: "Established merchant" is defined in rules [R 436.1101] as a person who owns or has owned a drugstore, patent medicine store, supermarket, grocery store, delicatessen, party store, meat market, or department store for one year at some location.)

\* Under the act, wines manufactured in Michigan from Michigan-grown grapes and fruits are entitled to tax reductions. Wines sold in Michigan are currently taxed at the rate of 13.5 cents per liter for wines containing less than 16 percent alcohol and 20 cents per liter for wines containing more than 16 percent alcohol. However, wines manufactured in Michigan from Michigan-grown grapes and fruits receive a 12.5 and 19 cent reduction in taxes respectively. The bill would delete the tax reduction for these wines, thereby taxing all wines sold in the state at the same rate.

\* The bill would delete a provision that prohibited the commission from issuing licenses to manufacturers (other than manufacturers of wine, mixed spirit drink, beer, or malt beverages, or distillers and rectifiers) unless at least 25 percent of the capital stock was owned by residents of the state.

\* The bill would delete a provision allowing the commission to require a retailer or applicant for a retail license to obtain liability insurance in lieu of a surety bond.

\* A provision requiring LCC employees who handle money to carry a surety bond would be deleted.

\* A provision authorizing the commission to designate a member as chairperson would be deleted to conform to a provision in Executive Order No. 1997 - 13 that transferred authority for the designation of a chairperson to the governor.

\* \* \*

The bill would repeal the following acts and place their respective provisions within the new code:

-- Public Act 94 of 1959 (MCL 436.101 to 436.103) which imposes a 4 percent specific tax on the retail price of spirits, proceeds of which are deposited in the state school aid fund.

-- Public Act 218 of 1962 (MCL 436.121 to 436.125) which imposes a 4 percent specific tax on the retail price of spirits, proceeds of which are credited to the general fund.

-- Public Act 213 of 1972 (MCL 436.131 to)436.133 which imposes a 1.85 percent specific tax on the retail price of spirits for off-premise consumption, proceeds of which are credited to the liquor purchase revolving fund within the state treasury.

-- The Tourism and Convention Facility Promotion Tax Act (MCL 436.141 to 436.148) which imposes a 4 percent specific tax on the retail price of spirits for consumption both on and off the premises, proceeds which are credited to the convention facility development fund within the state treasury.

**BACKGROUND INFORMATION:**

House Bill 4454 is similar to legislation introduced in the 1995-96 legislative session.

**FISCAL IMPLICATIONS:**

The House Fiscal Agency reports that because the bill is primarily a recodification of the act and contains few substantive changes, it would have no fiscal implications for state or local governments. The provision to credit the Liquor Control Commission's revolving fund with commission deposits and interest earnings on common cash would not result in an impact on the net general fund because current language contained in the Management and Budget Act still requires the net income of the revolving fund to be transferred to the general fund at the end of the fiscal year. The deletion of the provision regarding a tax advantage for wines grown and manufactured in Michigan would have no impact as the provision was previously ruled unconstitutional by the state attorney general. Further, there would also be no fiscal impact from the provision to allow the commission to issue in 1998 any resort licenses not issued in 1997 as all 25 of the special resort licenses for 1997 have been issued. (7-9-98)

**ARGUMENTS:**

**For:**

The bill would go a long way toward creating a more organized, easier to use act. The current Liquor Control Act is confusing and difficult to use because many amendments through the years have tended to be added in a chronological order rather than being grouped in sections with similar subject matter. The result is that provisions pertaining to a single subject may be strewn randomly throughout the entire act, rather than being concentrated with other provisions on the same subject. The bill would organize current provisions into separate chapters such as definitions, wine regulation, beer regulation, hotel and resort licenses, and prohibitions on minors in regards to alcohol, to name a few.

What few other changes have been made are generally minor, such as permitting the interest earned on the commission's revolving fund to be credited to the fund (an accounting change rather than a policy change), changing "warehouseman" to "warehouse", and permitting an on-premise licensee to have a printed price list readily available for customers' use rather than requiring the licensee to post the list conspicuously in a prominent place. The requirement for ADAs to provide retailers access to a computer application that would provide information as to the availability of products for delivery reflects a decision on the part of the ADAs to provide better service by tracking inventory more closely. The provision to restrict special licenses to affiliated groups of nonprofit organizations that can demonstrate an existence separate from the parent organization would prevent abuses by organizations applying for more than the allotted five annual licenses through creating committees or other offshoots of the parent organization. Other changes have been made to bring the act into conformity with more recent statutory and case law changes, as well as attorney general opinions. Many in the industry agree that the act is in need of restructuring, and that the bill would provide much needed organization and delete obsolete provisions without changing current law substantially.

**Response:**

Though the bill represents a stellar attempt to make the liquor act more user friendly, a few problems still remain. For instance, the bill contains several internal references to the Michigan Liquor Control Code of 1997 instead of 1998. Most importantly, however, is the creation of the new topless activity permits for counties under 95,000 in population. This provision can hardly be called a minor change, as it represents a significant change in the entertainment permit system currently established under departmental rules. Because this change would be retroactive to those

establishments which began to offer topless entertainment after the first of the year and not to all topless establishments, some question the legality of the provision. Others question the advisability and legality of restricting the provision to only those counties with a population of 95,000 or less instead of applying it uniformly statewide. Reportedly, the commission is not even sure how to go about enforcing such a provision. Further, it historically has been the responsibility of a community to establish local ordinances to prohibit topless entertainment if so desired. Communities already are required to approve an entertainment permit for a liquor licensee, and if topless entertainment is not desired, then the community should adopt a local ordinance before an establishment begins to offer such entertainment, not change the law after the fact.

**Rebuttal:**

Many communities have adopted local ordinances banning topless entertainment or zoning ordinances restricting the location of such an establishment, but others have used the permit process to restrict such activities. For instance, some communities have not approved liquor licensees for an entertainment permit if it were believed that the licensee might offer topless entertainment at a future time, and other communities have totally disallowed entertainment permits altogether for licensed establishments under their jurisdiction just in case a licensee may, in the future, offer topless entertainment. The change in the policy, however, was deemed necessary because some licensees were approved for an entertainment permit by their local governments under an assumption that topless activities would not be offered, only to have the establishment begin to offer topless entertainment after receiving a general entertainment permit. Unlike liquor licenses, which have to be renewed annually, permits are automatically renewed when the liquor license is renewed. Therefore, the only time a community can object or deny an entertainment permit is before one is issued. Once issued, there is little a community can do if a licensee begins to have topless activities on the premises unless the community had preexisting ordinances to ban such activities.

Recently, a liquor licensee, after obtaining a general entertainment permit, closed his establishment and then reopened it as a topless bar. Local residents objected primarily because the bar was close in proximity to a school and a popular fast-food restaurant, and cited harassment of children and women in the area by the bar's patrons. After operating for several months, the bar was forced to close under a preliminary injunction based on zoning violations. It is not clear yet if local zoning ordinances will be sufficient to keep the establishment closed. Reportedly, the owner may file

an appeal to challenge the ruling in state or federal court. However, this case illustrates the problems faced by communities. Under current law, once a liquor licensee has been granted an entertainment permit, there is little that the community can do to prevent the licensee from changing the type of entertainment offered. Under the bill, though, before offering topless entertainment, a licensed establishment would have to seek an additional topless activity permit. This would give locals more control over the types of activities offered in their communities, and an opportunity to say “no” to topless entertainment.

In regards to the topless activity permit provision pertaining only to the smaller counties, it was believed by some that the 18 larger counties have well developed frameworks of ordinances already in place to regulate topless entertainment in their jurisdictions, and so it was unnecessary to apply the provision to them.

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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.