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Michigan's Liquor Buyback Program

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Summary

Governor Whitmer issued Executive Order 2020-46 on April 13, 2020. The Order authorized the Michigan Liquor Control Commission (MLCC), housed in the Department of Licensing and Regulatory Affairs, to buy back spirits that were previously sold to licensees. The program paid licensees 100% of the purchase price of their eligible inventory. Payments were paid via check out of the Liquor Purchase Revolving Fund following an application process that could be completed online or by mail.

About 8,500 licensees serving liquor on-premises have been ordered to close or limit service because of the coronavirus disease 2019 (COVID-19) emergency. The program was intended to assist businesses coping with revenue loss during the current COVID-19 pandemic. It is among the first of several programs created for this purpose across the country, including in Ohio and North Carolina.

Program Design

The Commission did not take physical possession of the liquor it repurchased from licensees, but instead held legal title to it. In exchange, licensees received the purchase price of their eligible spirit inventory. In order to qualify for repurchase, the spirits in question must have been delivered to the licensee through an Authorized Distribution Agent (ADA) before March 16, 2020. Any inventory purchased after that date was not eligible. The date is significant because many bars stock additional inventory in preparation for St. Patrick's Day on March 17th.

Because of concerns about coronavirus transmission, the purchased liquor will remain in possession of the licensees for the duration of the present states of declared emergency and disaster. Executive Order 2020-151 has extended the emergency until August 11, 2020. Following the end of the emergency period, a licensee may sell spirits the MLCC repurchased to its customers if it pays the Commission for any spirits it chooses to retain.

Any spirits that are not paid for within 90 days of the end of the emergency will be repossessed by the MLCC. The licensee will not be able to purchase any additional spirits through an ADA until it either has paid the necessary amount or the MLCC has taken possession of the inventory it is owed. Licensees must keep track of their inventory and ensure that it is in good condition for future sale or return to the MLCC. This includes ensuring that all bottle labels are fully intact.

The intended effect of the program is to provide licensees with cash needed for operational expenses during a period in which they are not collecting normal revenue. In practice, it is similar to a short-term loan. The 90-day window for repayment is meant to allow businesses time to begin to resume sales, evaluate inventory, and assess business expenditures.

Eligibility

The following licensee categories were eligible to request to participate in the buyback program:

- Class C
 - Class C licenses allow for the sale of beer, wine, spirits, and mixed spirits drinks for on-premises consumption.

- B-Hotel
 - A B-Hotel license is required in order for a hotel to sell beer, wine, spirits, and mixed spirits drinks for on-premises consumption.
- G-1
 - G-1 licenses are required for establishments at golf courses of 18 or more holes that wish to sell beer, wine, spirits, and mixed spirits drinks on premises. Other conditions also apply to these licensees.
- Club
- Continuing Care Retirement Center
- Aircraft, Watercraft, and Train License

Under the Order, the Commission was required to accept all requests from eligible licensees received by the application deadline. The MLCC could repurchase spirits only; beer and wine were not eligible for the buyback program.

Executive Order 2020-46 authorized the MLCC to issue orders and directives in relation to the program. Among these were eligibility requirements not originally included in the Order. The Commission determined that, in order to participate, licensees must not have had any outstanding payments owed to the Commission and must not have been in escrow before March 10, 2020. (Licensees typically may apply to place their license in escrow if they are cannot operate their business establishment for an extended period of time; once placed in escrow with the MLCC, the licensee is no longer in active operation, but may be reclaimed within a five-year period. If it is not reclaimed, the licensee surrenders all rights associated with that license.)

Participation

The Commission issued direct notices to several thousand licensees to ensure that they were informed of the program and aware of their eligibility to apply. Licensees could apply and provide the required inventory information by email, by online application, or by traditional mail. The Commission extended the program's original deadline, from April 17, 2020, to April 24, 2020.

As of July 10, 2020, the Commission reported that there were about 670 participants in the program, with four additional licensees' participation pending documentation. The Department of Treasury has issued a total of \$3.4 million from the Liquor Purchase Revolving Fund to licensees. This figure represents approximately 1.5% of the annual average lapse to the General Fund from fiscal year (FY) 2014-15 to FY 2017-18. The June 2020 balance in the Fund was approximately \$220.3 million.

Liquor Purchase Revolving Fund Transfers to the General Fund		
Fiscal Year	Operating Revenues	Lapses to General Fund
2012-13	\$912,112,428	\$168,585,503
2013-14	1,152,973,257	176,840,786
2014-15	1,231,165,982	194,696,735
2015-16	1,082,256,025	209,559,512
2016-17	1,123,653,246	221,372,432
2017-18	1,181,471,127	230,700,967

Conclusion

The effects of the program will be difficult to accurately quantify because of the multitude of economic and social influences at work during the pandemic, as well as the obstacle of collecting the necessary data from licensees for comparisons between participants and nonparticipants. The ongoing state of emergency could result in the reopening of applications for this or other, similar programs.