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Testimony from:
Alan Smith, Midwest Director, R Street Institute

In SUPPORT of HB 5811, "A bill to amend 1998 PA 58, entitled
'Michigan liquor control code of 1998,'" (MCL 436.1101 to 436.2303) by adding Section 537a

June 3, 2020

House Regulatory Reform Committee

Chairman Webber, Vice-Chair Berman, Vice Chair Chirkun and members of the House Regulatory Reform Committee:

My name is Alan Smith, and I am the Midwest director of the R Street Institute, a public policy organization dedicated to principles of limited government, commercial freedom and free-market solutions.

In 1909, the Anti-Saloon League moved its national headquarters from Washington, D.C. to Westerville, Ohio, which had been "dry" since 1859 and had a large printing facility. It became the smallest city in the nation to boast a first-class post office thanks to the nearly 40 tons of mail sent out monthly by the publishing arm of the League. I keep files in a cabinet I bought when they sold some furniture awhile back to make room for the public library museum dedicated to the movement that helped enact arguably the most unpopular constitutional amendment ever ratified in these United States.

Years later, when I got a job in the Ohio House of Representatives, the minority leader told me to go upstairs to watch the liquor bill and the horse racing bills being debated by House committees. He said that if I could figure out what was going on I could have this job as long as I wanted it.

In the first part of the 21st century, we are still enmeshed in vestiges of history in the politics of government control of liquor, and we applaud this effort to reform Michigan's alcohol laws to reflect a more modern marketplace. Modestly loosening the tight grip of the state on alcohol in the current situation, which inhibits customer participation owing to narrowed capacity rules generated by the public health emergency, is a good step.

Specifically, allowing on-premise licensees to dispense beer, wine and mixed spirits in a to-go and delivery format not only provides a long-overdue update to the state's alcohol laws, but also will allow Michigan to keep pace with the wave of other states around the country that are currently pursuing similar legislation to allow more to-go and delivery options for alcohol.

There are still too many restrictions in the proposed legislation in our opinion. Is it really a government imperative for the public health and safety to ban straw holes in a container? This may inhibit, for example, use of shipping packaging like those commonly used for fruit juices that might be quickly adopted for this new product. Rather, the main goal should be sealing the container in a way that prevents tampering, which could include options like taping over a straw hole or stapling a to-go cocktail bag so that it could be determined if it was opened during transport. Similarly, the definition for "qualified container," which specifies that the containers must be "intended, and used only" for off-premises alcohol consumption, could prevent the use of containers that, while originally designed for another purpose, could still be safe and appropriate for to-go alcohol.

The bill's language should also be changed to directly clarify that third-party facilitators/delivery companies can be used to deliver these alcoholic beverages from on-premises licensees, similar to how third parties can be used for deliveries from off-premise retailers under state law.

Finally, the bill's three-year sunset provision, although we understand the context around its inclusion, makes little sense given that many states around the country are looking to permanently reform to-go alcohol rules both in light of the current pandemic as well as potential future shelter-in-place situations that arise. Even in a pandemic-free world, allowing to-go and delivery alcohol is an appropriate update to Michigan's legal regime surrounding alcohol.

In any event, we support this step forward. Congratulations, as well, on other regulatory reforms currently considered by the committee. Count on us to be helpful with additional government deregulation to mitigate lingering restrictions that modern consumer products and practices may render nonaligned to actual health and safety issues.

I would be happy to answer any questions.

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