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# MICHIGAN LIQUOR CONTROL CODE, ADMINISTRATIVE RULES AND RELATED LAWS

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MICHIGAN LIQUOR CONTROL COMMISSION  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
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REPRINTED FROM MICHIGAN COMPILED LAWS  
APRIL 2011 EDITION  
LAST UPDATED APRIL 2016  
\$15.00

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# FOREWORD

As one of 17 control states, the Michigan Liquor Control Commission's guiding philosophy is to make alcoholic beverages available while regulating their sale and distribution in order to protect the rights and interests of Michigan citizens. The Commission believes this can be accomplished most effectively through selective licensing and strict enforcement. The observance of all liquor laws and the rules of the Commission is in the best interest of everyone - - - the public, the licensees and the alcoholic beverage industry.

This publication contains the Liquor Control Code statutes and the administrative rules of the Liquor Control Commission. In addition, it contains certain other laws which are often used by liquor licensees, such as those regarding youth employment. The laws and rules contained in this printing are those in effect as of April 21, 2011. However, because laws and rules are constantly changing, subscriptions for updates to this publication are also available (*use the form on the next page*). Any colored pages which may be included with this book are amendments to the original printing and should replace pages with the same number.

**IMPORTANT:** Information on obtaining a license to sell alcoholic beverages at retail or the transfer of an existing license is available from the Commission's Lansing Office or on their website at [www.michigan.gov/lcc](http://www.michigan.gov/lcc). Applicants should not invest any money nor commit themselves by any binding agreement in the expectation of receiving a license until officially notified of the Commission's approval. Applicants are also warned against payment of any money to persons who claim they can obtain a license. This is a form of deception and fraud and persons soliciting and/or accepting money under such pretenses will be prosecuted.

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### ***CONVERSION CHART - EFFECTIVE APRIL 14, 1998***

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# **YOUTH EMPLOYMENT STANDARDS ACT (EXCERPTS)**

## **Act 90 of 1978**

AN ACT to provide for the legal employment and protection of minors; to provide for the issuance and revocation of work permits; to provide for the regulation of hours and conditions of employment of minors; to prescribe powers and duties of the departments of labor and education; to provide for the enforcement of this act; to prescribe penalties; and to repeal certain acts and parts of acts.

**History:** 1978, Act 90, Eff. June 1, 1978.

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### **409.101 Short title.**

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Sec. 1.

This act shall be known and may be cited as the “youth employment standards act”.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of bureau of worker's and unemployment compensation within department of consumer and industry services; transfer of powers and duties of bureau of worker's compensation and unemployment agency to bureau of worker's and unemployment compensation; transfer of powers and duties of director of bureau of worker's compensation and director of unemployment agency to director of bureau of worker's and unemployment compensation; and, transfer of powers and duties of wage and hour division of worker's compensation board of magistrates to bureau of worker's and unemployment compensation, see E.R.O. No. 2002-1, compiled at MCL 445.2004 of the Michigan Compiled Laws. For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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### **409.102 Definitions.**

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Sec. 2. As used in this act:

- (a) “Employ” means engage, permit, or allow to work.
- (b) “Employer” means a person, firm, or corporation that employs a minor, and includes the state or a political subdivision of the state, an agency or instrumentality of the state, and an agent of an employer.
- (c) “Issuing officer” means the chief administrator of a school district, intermediate school district, public school academy, or nonpublic school, or a person authorized by that chief administrator in writing to act on his or her behalf.
- (d) “Minor” means a person under 18 years of age.
- (e) “Rule” means a rule promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

**History:** 1978, Act 90, Eff. June 1, 1978;--Am. 1996, Act 438, Imd. Eff. Dec. 18, 1996.

**Compiler's note:** For creation of bureau of worker's and unemployment compensation within department of consumer and industry services; transfer of powers and duties of bureau of worker's compensation and unemployment agency to bureau of worker's and unemployment compensation; transfer of powers and duties of director of bureau of worker's compensation and director of unemployment agency to director of bureau of worker's and unemployment compensation; and, transfer of powers and duties of wage and hour division of worker's compensation board of magistrates to bureau of worker's and unemployment compensation, see E.R.O. No.2002-1, compiled at MCL 445.2004 of the Michigan Compiled Laws. For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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### **409.103 Employment of minor; prohibited occupations; minimum age; exceptions and limitations.**

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Sec. 3.

- (1) A minor shall not be employed in, about, or in connection with an occupation that is hazardous or injurious to the minor's health or personal well-being or that is contrary to standards established under this act, unless a deviation is granted under section 20.
- (2) The minimum age for employment of minors is 14 years, subject to the following exceptions and limitations:
  - (a) A minor at least 11 years of age and less than 14 years of age may be employed as a youth athletic program referee or umpire for an age bracket younger than his or her own age if an adult representing the athletic program is on the premises at which the athletic program event is occurring and a person responsible for the athletic program possesses a written acknowledgment of the minor's parent or guardian consenting to the minor's employment as a referee or umpire.
  - (b) A minor 11 years of age or older may be employed as a golf caddy.

- (c) A minor 13 years of age or older may be employed in farming operations as described in section 4(3).
- (d) A minor 11 years of age or older may be employed as a bridge caddy at any event sanctioned by the American contract bridge league or other national bridge league association.
- (e) A minor 13 years of age or older may be employed to perform services which entail setting traps for formal or informal trap, skeet, and sporting clays shooting events.

**History:** 1978; Act 90, Eff. June 1, 1978; - Am. 1987, Act 71, Imd. Eff. June 29, 1987; - Am. 1997, Act 132, Eff. Nov. 14, 1997.

**Compiler's note:** For creation of bureau of worker's and unemployment compensation within department of consumer and industry services; transfer of powers and duties of bureau of worker's compensation and unemployment agency to bureau of worker's and unemployment compensation; transfer of powers and duties of director of bureau of worker's compensation and director of unemployment agency to director of bureau of worker's and unemployment compensation; and, transfer of powers and duties of wage and hour division of worker's compensation board of magistrates to bureau of worker's and unemployment compensation, see E.R.O. No. 2002-1, compiled at MCL 445.2004 of the Michigan Compiled Laws. For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.104      Employment of minor; copy of work permit or temporary permit required; issuance and filing of work permit; duration of temporary permit; oath; return of permit; exception to work permit requirement; evidence of age; exception in subsection (3) inapplicable to other provisions.**

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Sec. 4

- (1) Except as provided in subsection (3), a minor shall not be employed in an occupation regulated by this act until the person proposing to employ the minor procures from the minor and keeps on file at the place of employment a copy of the work permit or a temporary permit. The work permit shall be issued by the issuing officer of the school district, intermediate school district, public school academy, or nonpublic school at which the minor is enrolled, and a copy of the work permit shall be placed in the minor's permanent school file for as long as the minor is employed. A temporary permit is valid for 10 days from the date of issue. A work permit may be issued by the school district in which the minor's place of employment is located, or by the public school academy or nonpublic school nearest that place of employment. An issuing officer may administer oaths in relation to work permits.
- (2) Immediately after the termination of the minor's employment, the employer shall return the permit the issuing officer.
- (3) The work permit requirement of subsection (1) does not apply to any of the following:
  - (a) A minor 13 years of age or older who is employed in farming operations involving detasseling, roguing, hoeing, or any similar act involved in the production of seed. This exception applies only when a minor is employed during school vacation periods or when the minor is not regularly enrolled in school. An employer shall keep on file at the place of employment evidence of the age of any minor employed under this work permit exception. Evidence of the age of the minor shall be established as provided in section 5(b).
  - (b) A minor who is performing work as an unpaid volunteer for an organization that is recognized as tax-exempt under, or whose purposes, structure, or activities are exclusively those that are described in, section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).
  - (c) A minor who is performing work as an unpaid volunteer for a fair or exhibition operated and managed under 1929 PA 11, MCL 46.151 to 46.153, or held by an agricultural or horticultural society under 1855 PA 80, MCL 453.231 to 453.240.
- (4) A work permit exception in subsection (3) does not provide an exemption from any other provision of this act.

**History:** 1978, Act 90, Eff. June 1, 1978; - Am. 1987, Act 71, Imd. Eff. June 29, 1987;--Am. 1996, Act 438, Imd. Eff. Dec. 18, 1996;--Am. 2010, Act 221, Imd. Eff. Dec. 9, 2010;--Am. 2011, Act 80, Imd. Eff. July 12, 2011.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. Rendered Wednesday, March 9, 2016. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.105      Work permit; application; examination, approval, and filing of papers.**

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Sec. 5.

An issuing officer shall issue a work permit only upon application in person by the minor desiring employment and after having examined, approved, and filed the following papers:

- 1) A statement of intention to employ, signed by the prospective employer or by a person authorized by the prospective employer, setting forth the general nature of the occupation in which the employer intends to employ the minor, the hours during which the minor will be employed, the wages to be paid and other information the department of education, in cooperation with the department of labor, requires.
- 2) Evidence showing that the minor is of the age required by this act. Proof of age shall be established by one of the following:
  - i) A certified copy of the birth record or any other proof of age showing the place and date of birth.
  - ii) A certified copy of valid operator's license issued by this state clearly showing date of birth.
  - iii) The school record or the school census record.
  - iv) The sworn statement of the minor's parent or guardian, together with a corroborating statement of a physician.
  - v) If documentary proof as described in subparagraphs (i) to (iv) is not obtainable, the issuing officer may accept other documentation as established by department of education rules.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.106 Work permit; form; color; contents; rules.**

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### Sec. 6.

- (1) Work permits shall be issued in the form prescribed by the department of education in cooperation with the department of labor and in accordance with instructions so prescribed. The color of work permits for minors under 16 years of age shall be distinct from that for minors 16 years of age and over. Work permits shall state the name and address of the minor, the date of birth, the occupation and industry in which the minor is employed, the employer's name and address, and other information required by the department of education.
- (2) The department of education shall promulgate rules prescribing standards for the issuance of work permits, which shall include the following factors:
  - (a) Evidence of age.
  - (b) Standards of work as established by the department of labor and federal regulation.
  - (c) Statutory requirements.
- (3) A fee shall not be charged for a work permit or other record required by this act.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's Notes:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

**Administrative rules:** R 340.186 et seq.; R 408.201 et seq.; R 409.1 et seq.; and R 423.401 et seq. of the Michigan Administrative Code.

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## **409.107 Revocation of permit; factors; record of refusal, suspension, or revocation; informing minor of appeal process.**

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### Sec. 7.

- (1) The issuing officer may revoke a permit based solely on the following factors:
  - (a) Poor school attendance, characterized by repeated erratic or unexcused absences, which results in consistent performance of school work at a level lower than that which preceded the minor's employment. The work permit shall be revoked only after the permit has been

suspended. The suspension shall take place upon notice to the minor and the employer, and an opportunity to correct the deficiency is afforded. The suspension shall not exceed 30 days after date of notification.

- (b) The minor's employment is in violation of federal or state law or of a regulation or rule promulgated under federal or state law, and the issuing officer is informed of the violation by the department of labor.
- (2) The issuing officer shall keep a record of each refusal, suspension, or revocation and the reasons for the action. Upon revocation, the minor shall be informed of the appeal process and shall be given instructions as to the initiation of an appeal.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.108 Failure or refusal to issue work permit; appeal; procedure.**

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### **Sec. 8.**

The failure or refusal of the issuing officer to issue a work permit may be appealed in accordance with Act No. 306 of the Public Acts of 1969, as amended, by the minor or by the parent or guardian of the minor applying therefor, or by the person or agency to whom custody of the minor has been awarded. An appeal may be taken in the same manner from the revocation of a permit.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.109 Work permit as evidence of age.**

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### **Sec. 9.**

A work permit issued in accordance with this act shall be conclusive evidence of the age of the minor for whom issued in a proceeding involving the employment of the minor under this act.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.110 Minor under 16 years; days and hours of employment.**

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### **Sec. 10.**

A minor under 16 years shall not be employed in an occupation subject to this act for more than 6 days in 1 week, nor for a period longer than a weekly average of 8 hours per day or 48 hours in 1 week, nor more than 10 hours in 1 day. The minor shall not be employed between the hours of 9 p.m. and 7 a.m. A minor who is a student in school shall not be employed more than a combined school and work week of 48 hours during the period when school is in session.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.111 Minor 16 years or older; days and hours of employment; definitions.**

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## Sec. 11.

1. Except as provided in subsection (3), a minor 16 years of age or older shall not be employed in an occupation subject to this act for more than any of the following periods:
  - (a) Six days in 1 week.
  - (b) An average of 8 hours pay day in 1 week.
  - (c) Ten hours in 1 day.
  - (d) Subject to subdivision (e), 48 hours in 1 week.
  - (e) If the minor is a student in school and school is in session, 24 hours in 1 week.
2. Except as provided in subsection (3), a person shall not employ a minor 16 years of age or older between 10:30 p.m. and 6 a.m. However, except as provided in subsection (3), a person may be employ a minor 16 years of age or older who is a student in school until 11:30 p.m. on any of the following days:
  - (a) On Fridays and Saturdays.
  - (b) During school vacation periods.
  - (c) During periods when the minor is not regularly enrolled in school.
3. A person may employ a minor 16 years of age or older in farming operations involved in the production of seed or in agricultural processing for a period greater than the periods described in subsections (1) and (2) if all of the following conditions are met:
  - (a) If the minor is a student in school, the period greater than the periods described in subsections (1) and (2) occurs when school is not in session.
  - (b) The minor is employed for not more than 11 hours in 1 day.
  - (c) The minor is employed for not more than 62 hours in any week. However, the employer shall not require the minor to work more than 48 hours during any week without the consent of the minor
  - (d) The minor is not employed between 2 a.m. and 5:30 a.m.
  - (e) The agricultural processing employer maintains on file a written acknowledgment of the minor's parent or guardian consenting to the period of employment authorized under this subsection.
4. As used in this section:
  - (a) "Agricultural processing" means the cleaning, sorting, or packaging of fruits or vegetables.
  - (b) "Farming operations involved in the production of seed" means farming activities and research involved in the production of seed, including plant detasseling, hand-pollination, roguing, or hoeing, and any other similar farming activity required for commercial seed production.

**History:** 1978, Act 90, Eff. June 1, 1978;—Am. 1995, Act 251, Eff. Mar. 28, 1996;—Am. 1996, Act 499, Imd. Eff. Jan. 9, 1997;—Am. 2000, Act 418, Imd. Eff. Jan. 8, 2001;—Am. 2011, Act 197, Imd. Eff. Oct. 18, 2011.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.112 Meals and rest period.**

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## Sec. 12.

A minor shall not be employed for more than 5 hours continuously without an interval of at least 30 minutes for a meal and rest period. An interval of less than 30 minutes shall not be considered to interrupt a continuous period of work.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.112a      Employment of minor in occupation involving a cash transaction after sunset or 8 p.m. at fixed location; condition.**

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Sec. 12a.

A minor who would otherwise be permitted under this act to be employed in an occupation subject to this act shall not be employed in an occupation that involves a cash transaction subject to this act after sunset or 8 p.m., whichever is the earlier, at a fixed location unless an employer or other employee 18 years of age or older is present at the fixed location during those hours.

**History:** Add. 1980, Act 436, Eff. Mar. 31, 1981.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.113      Posting copy of "409.110, 409.111, and 409.112; time record.**

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Sec. 13.

- (1) Each employer shall keep posted conspicuously in or about the premises at which a minor is employed, a printed copy of sections 10, 11, and 12 as furnished by the department.
- (2) Each employer shall keep in or about the premises at which a minor is employed, an adequate time record which shall state the number of hours worked by the minor each day of the week together with starting and ending times and other information the department of labor requires. The employer shall keep the record on file for not less than 1 year.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.114      Employment of minor in performance by performing arts organization; approval.**

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Sec. 14.

This act shall not prevent a minor from being employed in a performance by any performing arts organization if a letter of approval is obtained from the department of labor by the representative of the arts organization. Approval shall be issued only if the department of labor determines that the employment is not detrimental to the health or personal well-being of the minor, that the minor is adequately supervised, and that the minor's education is not neglected.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.114a      Performing in or being subject to child abusive commercial activity.**

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Sec. 14a.

Except as provided in section 14, a minor shall not perform in or be a subject of a child abusive commercial activity as defined in section 145c of Act No. 328 of the Public Acts of 1931, being section 750.145c of the Michigan Compiled Laws.

**History:** Add. 1978, Act 228, Imd. Eff. June 14, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.115      Employment of minor in establishment manufacturing, distributing, or selling alcoholic beverages.**

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Sec. 15.

- (1) A work permit shall not be issued authorizing the employment of a minor 16 years of age or older in, about, or in connection with that part of an establishment where alcoholic beverages are distilled, rectified, compounded, brewed, manufactured, bottled, consumed, distributed, sold at retail, or sold for consumption on the premises unless the sale of food or other goods constitutes at least 50% of the total gross receipts.
- (2) This act shall not prohibit the issuance of work permits for 14- and 15-year-olds to be employed in establishments where alcoholic beverages are sold at retail, if the sale of food or other goods constitutes at least 50% of the total gross receipts of the establishment. Minors 14 and 15 years of age shall not be employed in, or about, or in connection with that part of the establishment where alcoholic beverages are consumed or sold for consumption on the premises.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.116      Exemption; minor 16 years of age completing requirements for graduation; minor 17 years of age passing general educational development test; duty of employer.**

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Sec. 16.

- (1) This act does not apply to or prohibit the employment of a minor 16 years of age or older who has completed the requirements for graduation from high school or obtained a high school equivalency certificate. An employer, before employing the minor, shall obtain and keep on file a certification from the school the minor attended certifying that the minor has completed the requirements for graduation or a copy of the high school equivalency certificate.
- (2) This act shall not apply to or prohibit the employment of a minor 17 years of age or older who has successfully passed the general educational development test. An employer, before employing the minor, shall obtain and keep on file proof of the minor's successful completion.

**History:** 1978, Act 90, Eff. June 1, 1978;—Am. 2014, Act 144, Imd. Eff. June 3, 2014.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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**409.117      Exemption; emancipated minor; duty of employer.**

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Sec. 17.

This act shall not apply to nor prohibit the employment of an emancipated minor, as defined by section 4 of Act No. 293 of the Public Acts of 1968, as amended, being section 722.4 of the Michigan Compiled Laws. An employer, before employing the minor, shall obtain and keep on file proof of the minor's emancipated status.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.409.118 Exemption; minor 14 years of age employed under agreement or contract between employer and governing body of school district, public school academy, or nonpublic school.

## Sec. 18.

This act does not apply to or prohibit the employment of a student minor 14 years of age or older by an employer if a written agreement or contract is entered into between the employer and the governing body of the school district, public school academy, or nonpublic school at which the minor is enrolled. The employment shall not be in violation of a federal statute or regulation and a signed copy of the agreement shall be on file in the place of employment before the minor begins employment.

**History:** 1978, Act 90, Eff. June 1, 1978 ;-- Am. 1996, Act 438, Imd. Eff. Dec. 18, 1996.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## 409.119 Exemptions generally; hours of work.

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## Sec. 19.

- (1) This act shall not apply to or prohibit a minor from engaging in any of the following activities:
  - (a) Domestic work or chores in connection with a private residence.
  - (b) Soliciting, distributing, selling, or offering for sale newspapers, magazines, periodicals, political, or advertising matter.
  - (c) Shoe shining.
  - (d) Services performed as a member of a recognized youth oriented organization that is engaged in citizenship training and character building, if the services are not intended to replace employees in occupations for which workers are ordinarily paid.
  - (e) Employment in a business owned and operated by the parent or guardian of the minor. For the purposes of this subdivision, a business is considered to be owned by the parent or guardian of the minor if the parent or guardian is either the sole owner, partner, or stockholder in the business and a business is considered to be operated by the parent or guardian of the minor if he or she devotes substantially all of his or her working hours to the operation of the business.
  - (f) Farm work if the employment is not in violation of a standard established by the department of labor and economic growth. Farm work means the work activity designated in sector 11 - agriculture, forestry, fishing, and hunting, of the North American industry classification system - United States, 1997, published by the office of management and budget. Farm work includes any practices performed on a farm as an incident to or in conjunction with farming operations, including preparation for market and delivery to storage, market, or carriers for transport to market.
  - (g) Employment by a school, academy, or college in which the minor is enrolled if the minor is 14 years old or older.
  - (h) Nonhazardous construction work or operations performed as an unpaid volunteer, if the construction work or operations are performed under adult supervision for a charitable housing organization. As used in this subdivision:
    - (i) "Charitable housing organization" means a nonprofit charitable organization the primary purpose of which is the construction or renovation of residential housing for low-income individuals.
    - (ii) "Family income" and "statewide median gross income" mean those terms as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.
    - (iii) "Low-income person" means a person with a family income of not more than 60% of the statewide median gross income.
    - (iv) "Nonhazardous construction work or operations" means construction work or operations that are performed at a construction site of a new or renovated single family home and do not involve the use of power tools, woodworking machinery, or hazardous

substances or other activities that would constitute a great risk of serious injury. Activities that would constitute a great risk of serious injury include, but are not limited to, all of the following:

- (A) Excavation.
- (B) Highway, bridge, or street construction.
- (C) Wrecking.
- (D) Demolition.
- (E) New commercial or new multiple residential construction.

- (2) If a minor is required by law to attend school, the work may only be performed outside of school hours, unless the minor is enrolled and employed under a work-related educational program.

**History:** 1978, Act 90, Eff. June 1, 1978; -- Am. 2003, Act 288, Imd. Eff. Jan. 8, 2004.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.120 Rules; deviations.**

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### Sec. 20.

- (1) The department of labor shall promulgate rules prescribing standards not inconsistent with this act as to the working conditions, safety, health and personal well-being of minors in various types of employment.
- (2) Deviations from established standards or from hours by employment shall be granted by the director of labor when it is determined to be in the best interests of the minor and the community. The procedures for applying and issuing deviations shall be prescribed by the department of labor.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

**Administrative rules:** R 408.6202 et seq. of the Michigan Administrative Code.

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## **409.121 Enforcement and prosecution of act; right of entry and inspection.**

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### Sec. 21.

The department of labor shall enforce this act and assist in the prosecution of this act. The department shall have the authority to enter and inspect any place where a minor may be employed and to have access to work permits, age certificates, or other proof of age and time records of the employer, and other records which may aid in the enforcement of this act.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.122 Violation as misdemeanor or felony; penalties.**

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### Sec. 22.

- (1) Except as provided in subsection (2) or (3), a person who employs a minor in violation of this act, violates this act or a rule promulgated under this act, or obstructs the department of labor in the enforcement of this act is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$500.00, or both.
- (2) A person who employs, permits, or suffers a minor in violation of section 12a is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than 2,000.00, or both. A person who commits a second offense under section 12a is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than

\$5,000.00, or both. A person who commits a third or subsequent violation of section 12a is guilty of a felony, punishable by imprisonment for not more than 10 years, or a fine of not more than \$10,000.00, or both.

- (3) A person who employs, permits, or suffers a minor to be employed or to work in violation of section 14a is guilty of a felony, punishable by imprisonment for not more than 20 years, or a fine of not more than \$20,000.00, or both.

**History:** 1978, Act 90, Eff. June 1, 1978; -- Am. 1978, Act 228, Imd. Eff. June 14, 1978; -- Am. 1980, Act 436, Eff. Mar. 31, 1981.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.123      Repeal of MCL 409.1 to 409.30 and 380.1597**

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Sec. 23.

(1) Act No. 157 of the Public Acts of 1947, as amended, being sections 409.1 to 409.30 of the Compiled Laws of 1970, is repealed.

(2) Section 1597 of Act No. 451 of the Public Acts of 1976, being section 380.1597 of the Compiled Laws is repealed.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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## **409.124      Effective date.**

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Sec. 24.

This act shall take effect June 1, 1978.

**History:** 1978, Act 90, Eff. June 1, 1978.

**Compiler's note:** For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of wage hour division relative from department of licensing and regulation to department of education, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

territorial limits of the United States for more than 48 hours and has not brought alcoholic liquor into the United States during the preceding 30 days.

- (8) An individual 21 years of age or older may do either of the following in relation to alcoholic liquor that contains less than 21% alcohol by volume:
  - (a) Personally transport from another state, once in a 24-hour period, not more than 312 ounces of alcoholic liquor for that individual's personal use, notwithstanding subsection (1).
  - (b) Ship or import from another state alcoholic liquor for that individual's personal use if that personal importation is done in compliance with subsection (1).
- (9) A direct shipper shall not sell, deliver, or import wine to a consumer unless it applies for and is granted a direct shipper license from the commission. This subsection does not prohibit wine tasting or the selling at retail by a wine maker of wines he or she produced and bottled or wine manufactured for that wine maker by another wine maker, if done in compliance with this act. Only the following persons qualify for the issuance of a direct shipper license:
  - (a) A wine maker.
  - (b) A wine producer and bottler located inside this country but outside of this state holding both a federal basic permit issued by the alcohol and tobacco tax and trade bureau and a license to manufacture wine in its state of domicile.
- (10) An applicant for a direct shipper license shall submit an application to the commission in a written or electronic format provided by the commission and accompanied by an application and initial license fee of \$100.00. The application shall be accompanied by a copy or other evidence of the existing federal basic permit or license, or both, held by the applicant. The direct shipper may renew its license annually by submission of a license renewal fee of \$100.00 and a completed renewal application. The commission shall use the fees collected under this section to conduct investigations and audits of direct shippers. The failure to renew, or the revocation or suspension of, the applicant's existing Michigan license, federal basic permit, or license to manufacture wine in its state of domicile is grounds for revocation or denial of the direct shipper license. If a direct shipper is found guilty of violating this act or a rule promulgated by the commission, the commission shall notify both the alcoholic liquor control agency in the direct shipper's state of domicile and the alcohol and tobacco tax and trade bureau of the United States department of treasury of the violation.
- (11) Except as otherwise provided under subsection (12), a retailer that holds a specially designated merchant license in this state; an out-of-state retailer that holds its state's substantial equivalent license; or a brewpub, micro brewer, or an out-of-state entity that is the substantial equivalent of a brewpub or micro brewer may deliver beer and wine to the home or other designated location of a consumer in this state if all of the following conditions are met:
  - (a) The beer or wine, or both, is delivered by the retailer's, brewpub's, or micro brewer's employee and not by an agent or by a third party delivery service.
  - (b) The retailer, brewpub, or micro brewer or its employee who delivers the beer or wine, or both, verifies that the individual accepting delivery is at least 21 years of age.
  - (c) If the retailer, brewpub, or micro brewer or its employee intends to provide service to consumers, the retailer, brewpub, or micro brewer or its employee providing the service has received alcohol server training through a server training program approved by the commission.
- (12) A retailer that holds a specially designated merchant license in this state or an out-of-state retailer that holds its state's substantial equivalent license may utilize a third party that provides delivery service to municipalities in this state that are surrounded by water and inaccessible by motor vehicle to deliver beer and wine to the home or other designated location of that consumer if the delivery service is approved by the commission and agrees to verify that the individual accepting delivery of the beer and wine is at least 21 years of age.
- (13) For purposes of subsection (1), a qualified micro brewer or an out-of-state entity that is the substantial equivalent of a qualified micro brewer may sell and deliver beer to a retailer in this state if all of the following conditions are met:
  - (a) The retailer is not located in a sales territory for which the qualified micro brewer has granted exclusive sales rights to a wholesaler pursuant to sections 401 and 403 for the sale of any brand or brands of beer produced by that micro brewer.
  - (b) The beer is sold and delivered by an employee of the qualified micro brewer, not an agent, and is transported and delivered utilizing a vehicle owned by the qualified micro brewer, not by a third party delivery service.

- (c) The qualified micro brewer is in compliance with applicable state and federal law and applicable regulatory provisions of this act and rules adopted by the commission under this act including, but not limited to, those requirements related to each of the following:
  - i. Employees that sell and deliver beer to retailers.
  - ii. Vehicles used to deliver beer to retailers
  - iii. Price schedules and temporary price reductions.

(14)As used in this section:

- (a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.
- (b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.
- (c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.
- (d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.
- (e) "Consumer" means an individual who purchases wine for personal consumption and not for resale.
- (f) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.
- (g) "Diligent inquiry" means a diligent good faith effort to determine the age of an individual, that includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification that establishes the identity and age of the individual.
- (h) "Direct shipper" means a person who sells, delivers, or imports wine, to consumers in this state, that he or she produces and bottles or wine that is manufactured by a wine maker for another wine maker and that is transacted or caused to be transacted through the use of any mail order, internet, telephone, computer, device, or other electronic means, or sells directly to consumers on the winery premises.
- (i) "Identification verification service" means any internet-based service approved by the commission specializing in age and identity verification.
- (j) "Qualified micro brewer" means a micro brewer that produces in total less than 1,000 barrels of beer per year. In determining the 1,000-barrel threshold, all brands and labels of a micro brewer, whether brewed in this state or outside this state, shall be combined.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2000, Act 289, Imd. Eff. July 10, 2000 ;-- Am. 2005, Act 268, Imd. Eff. Dec. 16, 2005 ;-- Am. 2008, Act 474, Eff. Mar. 31, 2009 ;-- Am. 2014, Act 50, Imd. Eff. Mar. 25, 2014

Compiler's Notes: Enacting section 2 of Act 268 of 2005 provides: "Enacting section 2. If an appellate court declares this amendatory act unconstitutional, then it is the intent of the legislature that a good faith effort be made to amend section 305 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1305, to make it less burdensome for a small winery to terminate an agreement with a wholesaler."

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**436.1205      Privatization of warehousing and delivery of spirits; authorized distribution agents.**

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Sec. 205.

- (1) The commission shall, as provided in section 203(1), by order appoint authorized distribution agents to warehouse and deliver spirits in this state to ensure that all retail licensees are properly serviced with spirits. An authorized distribution agent is subject to uniform requirements, including business operating procedures, that the commission may prescribe by rule, subject to this section.

- (2) A person is eligible for appointment by the commission as an authorized distribution agent if all of the following circumstances exist:
- (a) The person satisfies all applicable commission rules prescribing qualifications for licensure promulgated under section 215.
  - (b) The person has entered into a written agreement or contract with a supplier of spirits to warehouse and deliver a brand or brands of spirits of that supplier of spirits.



- (c) The person has an adequate warehousing facility located in this state to store spirits from which all delivery of spirits to retail licensees must be made.
- (3) An authorized distribution agent shall not have a direct or indirect interest in a supplier of spirits or in a retailer. A supplier of spirits or a retailer shall not have a direct or indirect interest in an authorized distribution agent. An authorized distribution agent shall not hold title to spirits.
- (4) An authorized distribution agent shall deliver to each retailer located in its assigned distribution area on at least a weekly basis if the order meets the minimum requirements. Except that in a week that accompanies a state holiday, the commission may order a modified delivery schedule if a retailer will not wait longer than 9 days between deliveries because of the modified delivery schedule. The commission shall provide for an integrated on-line ordering system for spirits and shall require the continuance of any ordering system in existence on the activation date of the system established under section 206. The commission shall set minimum requirements that must be a sufficient number of bottles to comprise not more than 2 cases. A retailer may pick up the product at the authorized distribution agent's warehouse. To avoid occasional emergency outages of spirits, a retail licensee may make up to 12 special emergency orders to an authorized distribution agent in each calendar year. An authorized distribution agent shall make a special emergency order available to the retail licensee within 18 hours of the placing of the order. An authorized distribution agent shall make a special emergency order placed on Saturday or Sunday available to the retail licensee before noon on the following Monday. An authorized distribution agent may impose a fee of up to \$20.00 to deliver a special emergency order to a retail licensee.
- (5) In locations inaccessible to a motor vehicle as that term is defined by the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, an authorized distribution agent shall arrange that a delivery of spirits to a retailer be in compliance with the following procedures:
- (a) After processing an order from a retailer, an authorized distribution agent shall contact a retailer to confirm the quantity of cases or bottles, or both, and the exact dollar total of the order.
  - (b) The authorized distribution agent shall coordinate with the retailer the date and time a driver is scheduled to deliver the order to a ferry transport dock, shall arrange any ferry, drayage, or other appropriate service, and shall pick up the retailer's payment at that time.
  - (c) The ferry transport company or company representing any other form of conveyance shall take the retailer's payment to the mainland dock and give that payment to the authorized distribution agent's driver.
  - (d) The ferry transport company or company representing any other form of conveyance shall transport the order to the drayage or other appropriate company at the island dock for immediate delivery to the retailer.
  - (e) The drayage or other appropriate company shall deliver the order to the retailer.
- (6) An authorized distribution agent is responsible for the payment of all transportation and delivery charges imposed by the ferry, drayage, or other conveyance company and is responsible for all breakage and any shortages, whether attributable to the ferry, drayage, or other conveyance company or any combination of those companies, until the order is delivered to the retailer's establishment. This subsection does not prevent the authorized distribution agent from seeking reimbursement or damages from any company conveying the authorized distribution agent's product.
- (7) Except as otherwise provided in subsection (4), an authorized distribution agent shall not charge a delivery fee or a split-case fee for delivery of spirits sold by the commission to a retailer.
- (8) An authorized distribution agent or prospective authorized distribution agent shall maintain and make available to the commission or its representatives, on notice, any contract or written agreement it has with a supplier of spirits or other authorized distribution agent for the warehousing and delivering spirits in this state.
- (9) For a violation of this act, a rule promulgated under this act, or the terms of an order appointing an authorized distribution agent, an authorized distribution agent is subject to the suspension, revocation, forfeiture, and penalty provisions of sections 903(1) and 907 in the same manner in which a licensee would be subject to those provisions. An authorized distribution agent aggrieved by a penalty imposed by the commission may invoke the hearing and appeal procedures of section 903(2) and rules promulgated under that section.

- (10) A specially designated distributor may sell to an on-premises licensee up to 9 liters of spirits during any month and an on-premises licensee may purchase, collectively from specially designated distributors, up to 9 liters of spirits during any 1 month. Notwithstanding any other provision of this act or rule promulgated under this act, a specially designated distributor is only liable for knowingly violating this section. An on-premises licensee shall maintain and make available to the commission upon request records verifying the purchases described in this subsection.
- (11) In addition to paying a vendor of spirits the acquisition price for purchasing spirits, the commission may pay a vendor of spirits an additional amount of not less than \$4.50 and not more than \$8.25 for each case of spirits purchased as an offset to the costs being incurred by that vendor of spirits in contracting with an authorized distribution agent for warehousing and delivering spirits to retailers. The payment described in this subsection may not be included in the cost of purchasing spirits by the commission and is not subject to the commission's markup, special taxes, or state sales tax. The per-case offset established by this subsection may be increased by the state administrative board each January to reflect reasonable increases in the authorized distribution agent's cost of warehousing and delivering. As used in this subsection, "case" means a container holding twelve 750 ml bottles of spirits or other containers containing spirits that are standard to the industry.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998 ;-- Am. 2001, Act 274, Imd. Eff. Jan. 11, 2002 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010; Am. 2010, Act 213, Eff. November 17, 2010

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### **436.1206      Integrated on-line ordering system.**

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#### Sec. 206.

- (1) Not later than January 1, 2003, the commission shall provide for an integrated on-line ordering system for retail licensees to place orders for spirits from authorized distribution agents. The system shall allow retail licensees to order all brands and types of spirits from the commission and provide the order to the appropriate authorized distribution agents.
- (2) The commission may enter into any agreements with or contract with private or other public entities as provided for or allowed by law to establish the integrated on-line ordering system described in subsection (1). A licensee of the commission or an authorized distribution agent shall not have a direct or indirect interest in the person with whom the commission contracts or enters into an agreement to establish the integrated on-line ordering system described in subsection (1). Ownership of the integrated on-line ordering system remains with the commission. The commission may, through issuance of an order, allow banner advertising in conjunction with the on-line ordering system as a means of defraying the costs of operation or maintenance, or both, of the system.

History: Add. 2001, Act 274, Imd. Eff. Jan. 11, 2002

property, leasehold improvement, and fixtures for the premises to be licensed is \$75,000.00 or more. Further, the commission shall issue 1 license under this subsection per year to an applicant located in a rural area that has a poverty rate, as defined by the latest decennial census, greater than the statewide average, or that is located in a rural area that has an unemployment rate higher than the statewide average for 3 of the 5 preceding years. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined under subsection (11) and subject to subsection (16) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to all of the following:

- (a) The number of applications received under this subsection.
  - (b) The number of licenses granted and to whom.
  - (c) The number of applications rejected and the reasons they were rejected.
  - (d) The number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.
- (4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 15 resort economic development licenses per year. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:
- (a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.
  - (b) The establishment's primary business is not the sale of alcoholic liquor.
  - (c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,500,000.00.
  - (d) The establishment does not allow or permit casino gambling on the premises.
- (5) In governmental units having a population of 50,000 or less, as determined by the last federal decennial census or as determined under subsection (11), in which the quota of specially designated distributor licenses, as provided by section 533, has been exhausted, the commission may issue not more than a total of 15 additional specially designated distributor licenses per year to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued under this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued under this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of that licensed location. A specially designated distributor license issued under section 533 may be located within 2,640 feet of a specially designated distributor license issued under this subsection. The person signing the application for a specially designated distributor license under this subsection shall state that he or she attempted to secure an escrowed specially designated distributor license or quota license and that, to the best of his or her knowledge, an escrowed specially designated distributor license or quota license is not readily available within the county in which the applicant for the specially designated distributor license under this subsection proposes to operate.
- (6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued under this subsection shall be issued only for events that are to be held from May 1 to September 30, are artistic in nature, and that are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license is valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license is \$50.00. A special purpose license may be issued only to a corporation that meets all of the following requirements:
- (a) Is a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

- (b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.
  - (c) Has been in continuous existence for not less than 6 years.
- (7) Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. Except as otherwise provided in this subsection, a license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events. A license may be issued at an outdoor stadium customarily used for intercollegiate athletic events for not more than 30 consecutive days to a concessionaire of an entity granted exclusive use of a public university's property in conjunction with a hockey game sanctioned by an unincorporated not-for-profit association that operates a major professional ice hockey league consisting of teams located in Canada and in the United States or in conjunction with a professional international soccer match between 2 international soccer clubs as part of a tournament sanctioned by a not-for-profit association that is the governing body for soccer in the United States and organized and promoted by a match agent that is licensed by the international governing body for soccer if the concessionaire has entered into an agreement granting it control of the licensed premises for the purposes of complying with this act and rules promulgated under this act regarding the sale of alcoholic liquor. A nationally televised game between 2 professional hockey teams or 2 professional soccer clubs played outdoors is considered an established outdoor program for the purposes of this subsection. Notwithstanding any provision of this act or any rule promulgated under this act, a concessionaire obtaining a license under this subsection may share the profits generated from that license with an unincorporated not-for-profit association that operates a major professional ice hockey league consisting of teams located in Canada and in the United States or an affiliated entity under a written contract reviewed by the commission or with a licensed match agent and a promoter that organizes and promotes international soccer matches under a written contact reviewed by the commission. If the established outdoor program is a nationally televised game between 2 professional hockey teams or 2 professional international soccer clubs, the commission may allow the promotion and advertising of alcoholic liquor brands on the campus of a public university where a concessionaire has been issued a license under this subsection for the duration of the license.
- (8) In issuing a resort or resort economic development license under subsection (3), (4), or (5), the commission shall consider economic development factors of the area in issuing licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort or resort economic development license issued under subsection (3), (4), or (5) to another location. If the licensee goes out of business the license shall be surrendered to the commission.
- (9) The limitations and quotas of this section are not applicable to issuing a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is submitted for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.
- (10) The limitations and quotas of this section are not applicable to issuing a new license or renewing an existing license where the property or establishment to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.
- (11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

- (12) Before granting an approval as required in section 501(2) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. The local governmental unit shall provide public notice of the meeting to consider the granting of the license by the local governmental unit 2 weeks before the meeting.
- (13) The person signing the application for an on-premises resort or resort economic development license shall state and verify that he or she attempted to secure an on-premises escrowed license or quota license and that, to the best of his or her knowledge, an on-premises escrowed license or quota license is not readily available within the county in which the applicant for the on-premises resort or resort economic development license proposes to operate.
- (14) The commission shall not issue an on-premises resort or resort economic development license if the county within which the resort or resort economic development license applicant proposes to operate has not issued all on-premises licenses available under subsection (1) or if an on-premises escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premises resort or resort economic development license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.
- (15) The commission shall annually report to the legislature the names of the businesses issued licenses under this section and their locations.
- (16) The commission shall not require a class A hotel or a class B hotel licensed under subsection (2), (3), or (4) to provide food service to registered guests or to the public.
- (17) Subject to the limitation and quotas of subsection (1) and to local legislative approval under section 501(2), the commission may approve the transfer of ownership and location of an on-premises escrowed license within the same county to a class G-1 or class G-2 license or may approve the reclassification of an existing on-premises license at the location to be licensed to a class G-1 license or to a class G-2 license, subject to subsection (1). Resort or economic development on-premises licenses created under subsection (3) or (4) may not be issued as, or reclassified to, a class G-1 or class G-2 license.
- (18) An escrowed specially designated distributor license may be transferred, with the consent of the commission, to an applicant whose proposed operation is located within any local governmental unit in a county in which the specially designated distributor license is located. If the local governmental unit within which the escrowed specially designated distributor license is located spans more than 1 county, the license may be transferred to an applicant whose proposed operation is located within any local governmental unit in either county. If the specially designated distributor license is activated within a local governmental unit other than that local governmental unit within which the specially designated distributor license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the specially designated distributor license.
- (19) Subsection (8) of R 436.1135 of the Michigan administrative code does not apply to a transfer under subsection (18).
- (20) As used in this section:
- (a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.
  - (b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:
    - (i) The fair market value of the license, if determinable.
    - (ii) The size and scope of the proposed operation.
    - (iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 282, Imd. Eff. July 27, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998 ;-- Am. 1999, Act 91, Imd. Eff. June 30, 1999 ;-- Am. 2000, Act 399, Imd. Eff. Jan. 8, 2001 ;-- Am. 2001, Act 223, Eff. Mar. 22, 2002 ;-- Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002 ;-- Am. 2004, Act 191, Imd. Eff. July 8, 2004 ;-- Am. 2005, Act 97, Imd. Eff. July 20, 2005 ;-- Am. 2012, Act 212, Imd. Eff. June 27, 2012 ;-- Am. 2013, Act 237, Imd. Eff. Dec. 26, 2013 ;-- Am. 2014, Act 135, Imd. Eff. May 27, 2014

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**436.1532 Issuance of club license; public notice; annual filing by club; conduct of club affairs and management.**

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Sec. 532.

- (1) A club license allows the licensee to sell, for consumption on the licensed premises, beer, wine, mixed spirit drink, and spirits only to bona fide members of the club who have attained the age of 21 years. Except as otherwise provided in subsection (2), the commission shall not issue a license to a club unless the club has been in existence for a period of not less than 2 years before the application for the license. Public notice of the intent of the commission to issue the club license shall be given by publication in some newspaper published or in general circulation within the local governmental unit at least 10 days before the issuance of the license. A club that is a chapter of a national organization that has had a license for 10 or more years may apply for a license without a waiting period. Public notice of the commission's intent to renew the club license is not required.
- (2) Except in the case of a club paying a maximum fee, within 10 days after February 1 of each year the club shall file with the commission a list of names and residences of its members and make a similar filing of the name and residence with the commission within 10 days after the election of an additional member. The annual filing shall also include a statement that the club's annual aggregate membership fees or dues and other income, exclusive of the proceeds from the sale of alcoholic liquor, are sufficient to defray the annual rental of its leased or rented premises or, if the premises are owned by the club, are sufficient to meet the taxes, insurance, repairs, and interest on a mortgage on the premises.
- (3) The affairs and management of the club shall be conducted by a board of directors, executive committee, or similar body chosen by the members. A member, officer, agent, or employee of the club shall not be paid, or directly or indirectly receive in the form of salary or other compensation, profits from the disposition of alcoholic liquor to the club or to the members of the club, beyond the amount of salary fixed and voted at meetings by the members or by its directors or other governing body and as reported by the club to the commission, within 3 months after the meeting.

History: Add. 2001, Act 223, Eff. Mar. 22, 2002

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**436.1533 Eligibility for license as specially designated merchant or specially designated distributor.**

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Sec. 533.

A retail vendor licensed under this act to sell for consumption on the premises may apply for a license as a specially designated merchant. A specially designated distributor may apply for a license as a specially designated merchant. In cities, incorporated villages, or townships, the commission shall issue only 1 specially designated distributor license for each 3,000 of population, or fraction of 3,000. The quota requirement may be waived at the discretion of the commission if there is no existing specially designated distributor licensee within 2 miles of the applicant, measured along the nearest traffic route.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998

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**436.1534 Small distiller license.**

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Sec. 534.

- (1) Upon application in a manner acceptable to the commission and payment of the appropriate license fee, the commission shall issue a small distiller license to a person annually manufacturing in Michigan spirits in an amount not exceeding 60,000 gallons, of all brands combined.
- (2) A small distiller may only sell at retail from the licensed premises either or both of the following:
  - (a) Brands it manufactures on the licensed premises for consumption off the licensed premises, at a price posted by the commission under section 233.
  - (b) Brands it manufactures on the licensed premises for consumption on the licensed premises.
- (3) A small distiller may give samplings or tastings of brands it manufactures on the licensed premises.
- (4) A small distiller shall comply with the server training requirements of section 906.
- (5) This section does not allow the sale of spirits transacted or caused to be transacted by means of any mail order, internet, telephone, computer, device, or other electronic means.

History: Add. 2008, Act 218, Imd. Eff. July 16, 2008

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**436.1535 Vendor as authorized to do business.**

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Sec. 535.

A vendor shall be a person authorized to do business under the laws of this state.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998

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**436.1537 Classes of vendors permitted to sell alcoholic liquors at retail; sale of wine by wine maker; wine tastings.**

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Sec. 537.

- (1) The following classes of vendors may sell alcoholic liquor at retail as provided in this section:
  - (a) Taverns where beer and wine may be sold for consumption on the premises only.
  - (b) Class C licensee, where beer, wine, mixed spirit drink and spirits may be sold for consumption on the premises.
  - (c) Clubs where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to bona fide members where consumption is limited to these members and their bona fide guests, who are 21 years of age or older.
  - (d) Direct shippers where wine may be sold and shipped directly to the consumer.
  - (e) Hotels of class A where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests. Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.
  - (f) Specially designated merchants, where beer and wine may be sold for consumption off the premises only.
  - (g) Specially designated distributors where spirits and mixed spirit drink may be sold for consumption off the premises only.
  - (h) Special licensee, where beer and wine or beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only.
  - (i) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.
  - (j) Brewpubs where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:
    - (i) Class C.
    - (ii) Tavern.
    - (iii) Class A hotel.
    - (iv) Class B hotel.
  - (k) Micro brewers and brewers where beer produced by the micro brewer or brewer may be sold to a consumer for consumption on or off the brewery premises.
  - (l) Class G-1 licensee, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.
  - (m) Class G-2 licensee, where beer and wine may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.
  - (n) Motorsports event licensee, where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.
  - (o) Wine maker where wine may be sold by direct shipment, at retail on the licensed premises, and as provided for in subsections (2) and (3).
  - (p) Small distiller selling not more than 60,000 gallons of spirits manufactured by that licensee to the consumer at retail for consumption on or off the licensed premises in the manner provided for in section 534.
  - (q) Nonpublic continuing care retirement center license, where beer, wine, mixed spirit drink, mixed wine drink, and spirits may be sold at retail and served on the licensed premises to residents and bona fide guests accompanying the resident for consumption only on the licensed premises.
- (2) A small wine maker or an out-of-state entity that is the substantial equivalent of a small wine maker, that holds a farmer's market permit, where wine may be sampled and sold at a farmer's market for

consumption off the licensed premises. A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.

- (3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker on the premises where the wine maker is licensed to manufacture wine. The wine maker may charge for the samples.
- (4) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:
  - (a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements.
  - (b) Payment of a \$100.00 fee per location is made to the commission.
  - (c) The wine tasting locations are considered licensed premises, and the wine maker may include a charge for the samples.
  - (d) The wine tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.
  - (e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.
- (5) Notwithstanding section 1025(1), an outstate seller of beer, an outstate seller of wine, a wine maker, a brewer, a micro brewer, or a specially designated merchant, or an agent of any of those persons, who does not hold a license allowing the consumption of alcoholic liquor on the premises at the same licensed address, may conduct beer and wine tastings on the licensed premises of a specially designated merchant under the following conditions:
  - (a) A customer is not charged for the tasting of beer or wine.
  - (b) The tasting samples provided to a customer do not exceed 3 servings at up to 3 ounces per serving of beer or 3 servings at up to 2 ounces of wine. A customer shall not be provided more than a total of 3 samples of beer or wine within a 24-hour period per licensed premises.
  - (c) The specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer has first obtained an annual beer and wine tasting permit approved by the commission.
  - (d) The commission is notified, in writing, a minimum of 10 working days before the event, regarding the date, time, and location of the event.
- (6) During the time a beer or wine tasting is conducted under subsection (5), a specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer, or its agent or employee who has successfully completed a server training program as provided for in section 906, shall devote full time to the beer and wine tasting activity and shall perform no other duties, including the sale of alcoholic liquor for consumption off the licensed premises. Beer and wine used for the tasting must come from the specially designated merchant's inventory, and all open bottles must be removed from the premises on the same business day or resealed and stored in a locked, separate storage compartment on the licensed premises when not being used for the activities allowed by the permit.
- (7) A wholesaler shall not conduct or participate in beer and wine tastings allowed under a permit issued under subsection (5).
- (8) A beer and wine tasting under subsection (5) may only be conducted during the legal hours for the sale of alcoholic liquor by the licensee.
- (9) A brandy manufacturer or small distiller, with the prior written approval of the commission, may conduct tastings of brandy and spirits made by that brandy manufacturer or small distiller and may sell the brandy and spirits made by that brandy manufacturer or small distiller for consumption off the licensed premises at a location other than the licensed premises where the brandy manufacturer or small distiller is licensed to manufacture brandy or spirits under the following conditions:
  - (a) The premises upon which the brandy and spirits tastings occur conform to local and state sanitation requirements.
  - (b) Payment of a \$100.00 fee per location is made to the commission.
  - (c) The brandy and spirits tasting locations are considered licensed premises.

- (d) The brandy and spirits tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.
  - (e) The premises and the license comply with and are subject to all applicable rules promulgated by the commission.
- (10) An eligible merchant may fill and sell growlers with beer for consumption off the premises under the following conditions:
- (a) The premises where the filling of growlers takes place comply with the requirements for food service establishments under the food law, 2000 PA 92, MCL 289.1101 to 289.8111.
  - (b) The growler is sealed and has a label affixed to it that includes at least the brand name of the beer, the class of the beer, the net contents of the container, and the name of the retailer filling the growler.
  - (c) The eligible merchant or his or her agent or employee shall not fill a growler in advance of the sale.
  - (d) The eligible merchant or his or her agent or employee shall only utilize containers that have a capacity of 5 gallons or more to fill a growler.
  - (e) The beer to be dispensed has received a registration number from the commission and has been approved for sale by the commission.
  - (f) The eligible merchant complies with all applicable rules promulgated by the commission.
- (11) As used in this section:
- (a) "Eligible merchant" means a person that holds a specially designated merchant license and a class C, tavern, class A hotel, class B hotel, club, class G-1, or class G-2 license.
  - (b) "Growler" means any clean, refillable, resealable container that is exclusively intended, and used only, for the sale of beer for consumption off the premises and that has a liquid capacity that does not exceed 1 gallon.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2001, Act 223, Eff. Mar. 22, 2002 ;-- Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005 ;-- Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005 ;-- Am. 2008, Act 218, Imd. Eff. July 16, 2008; Am. 2010, Act 213, Eff. November 17, 2010; Am. 2011, Act. 298, Imd. Eff. Dec. 22, 2011; Am. 2013, Act. 101, Imd. Eff. July 2, 2013.

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**436.1539 Marina as specially designated merchant or distributor; license; conditions.**

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Sec. 539.

A marina that is situated on 1 of the Great Lakes, on that part of an inland waterway or tributary connected to and navigable to 1 of the Great Lakes, or on a Great Lakes connecting waterway may be issued a license as a specially designated merchant or specially designated distributor, notwithstanding the fact that the marina maintains motor vehicle fuel pumps on or adjacent to the licensed premises, or maintains a financial interest in any motor vehicle fuel pumps if both of the following conditions are met:

- (a) The marina's primary business is the sale of boats or the provision of services and supplies to recreational power cruisers and sailboats of the type that typically travel on the Great Lakes.



- (4) This section shall not be construed to repeal or amend section 1019.
- (5) As used in this section, "consideration" includes any fee, cover charge, ticket purchase, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks, or the purchasing of any service or item, or combination of service and item; or includes the furnishing of glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2006, Act 131, Imd. Eff. May 5, 2006

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**436.1914 Alcohol vapor devices prohibited; penalty.**

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Sec. 914.

- (1) Except as otherwise provided in subsection (3), a person shall not use or offer for use, possess, sell, or offer for sale an alcohol vapor device.
- (2) A person who violates subsection (1) is guilty of a misdemeanor punishable in the manner provided for in section 909.
- (3) The commission may jointly promulgate rules with the department of community health to allow for the sale or use of an alcohol vapor device for research purposes.

History: Add. 2005, Act 320, Imd. Eff. Dec. 27, 2005

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**436.1914a Added powdered alcohol; use, possession, sale, or offer for sale prohibited; violation as misdemeanor; exception; "powdered alcohol" defined.**

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Sec. 914a.

- (1) Except as otherwise provided in subsection (2), a person shall not use or offer for use, possess, sell, or offer for sale powdered alcohol. A person that violates this section is guilty of a misdemeanor punishable as provided in section 909.
- (2) This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.
- (3) As used in this section, "powdered alcohol" means alcohol that is sold in powder form for either direct use or reconstitution.

History: Add. 2015, Act 165, Eff. Jan. 26, 2016

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**436.1915 Possessing or consuming alcoholic liquor 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 alcoholic liquor; definitions.**

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Sec. 915.

- (1) Alcoholic liquor shall not be consumed on the public highways.
- (2) Except as provided in subsections (3) and (4), alcoholic liquor may be possessed or consumed in public parks, public places of amusement, or a publicly owned area not licensed to sell for consumption on the premises.
- (3) The governing body of a local governmental unit may prohibit by ordinance, order, or resolution the possession or consumption of alcoholic liquor in any public park, public place of amusement, or publicly owned area that is owned or administered, or both, by that local governmental unit. When land is leased from a department or agency of this state, an ordinance, order, or resolution adopted pursuant to this subsection shall be subject to the approval of the department or agency.

- (4) A department or agency of this state that administers public lands may prohibit by rule, order, or resolution the possession or consumption of alcoholic liquor on the public land under its jurisdiction.
- (5) As used in this section:
  - (a) "Local governmental unit" means a county, city, township, village, or charter authority.
  - (b) "Publicly owned area" means an area under the jurisdiction of a local governmental unit.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998

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**436.1916 Entertainment, dance, or topless activity permits; issuance; prohibited activity; exceptions; permits issued under administrative rule; fees; definitions.**

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Sec. 916.

- (1) An on-premises licensee shall not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises unless the licensee has applied for and been granted an entertainment permit by the commission. Issuance of an entertainment permit under this subsection does not allow topless activity on the licensed premises.

- (2) An on-premises licensee shall not allow dancing by customers on the licensed premises unless the licensee has applied for and been granted a dance permit by the commission. Issuance of a dance permit under this subsection does not allow topless activity on the licensed premises.
- (3) An on-premises licensee shall not allow topless activity on the licensed premises unless the licensee has applied for and been granted a topless activity permit by the commission. This section is not intended to prevent a local unit of government from enacting an ordinance prohibiting topless activity or nudity on a licensed premises located within that local unit of government. This subsection applies only to topless activity permits issued by the commission to on-premises licensees located in counties with a population of 95,000 or less.
- (4) The commission may issue to an on-premises licensee a combination dance-entertainment permit or topless activity-entertainment permit after application requesting a permit for both types of activities.
- (5) An on-premises licensee shall not allow the activities allowed by a permit issued under this section at any time other than the legal hours for sale and consumption of alcoholic liquor.
- (6) An extended hours permit is required for an on-premises licensee to engage in any of the following activities on the licensed premises at any time other than the legal hours for the sale and consumption of alcoholic liquor:
  - (a) Monologues, dialogues, motion pictures, still slides, closed circuit television, contests, other performances for public viewing on the licensed premises, if holding a permit for those activities.
  - (b) Patron dancing, if holding a permit for that activity.
  - (c) The performance or playing of an orchestra, piano, or other types of musical instruments or singing or the viewing of any publicly broadcast television transmission from a federally licensed station.
- (7) The commission may issue an extended hours permit to either of the following:
  - (a) A licensee not holding an entertainment, dance, or combination dance-entertainment permit, who desires to conduct activities described under subsection (11).
  - (b) A licensee who already holds, or submits an application for, an entertainment, dance, or combination dance-entertainment permit in order to conduct activities allowed by the permit.
- (8) The applicant for only an extended hours permit shall obtain the local approval for the extended hours permit under subsection (10). An applicant for an extended hours permit who holds an entertainment, dance, or combination dance-entertainment permit shall obtain the local approval for the entertainment, dance, or combination dance-entertainment permit under subsection (10) as well as local approval for the extended hours permit under subsection (10). The commission shall waive the conditions contained in R 436.1437(1) of the Michigan administrative code relative to the application for an extended hours permit.
- (9) An on-premises licensee issued an extended hours permit shall not allow customers on the licensed premises during the time period provided by the extended hours permit unless the activity, and only that activity, allowed by the extended hours permit is occurring. The issuance of an extended hours permit does not authorize any of the following:
  - (a) Topless activity.
  - (b) Except as otherwise provided under this subdivision, gaming as that term is defined in section 2 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.202. A licensee holding a casino license issued under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, may conduct gaming pursuant to the casino license only.
  - (c) Keno or other gaming authorized under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.
  - (d) The extension of hours for the serving of alcoholic liquor.
  - (e) The extension of hours for the consumption of alcoholic liquor as provided for in R 436.1403 of the Michigan administrative code.
- (10) Before the issuance of any permit under this section, the on-premises licensee shall obtain the approval of all of the following:
  - (a) The commission.
  - (b) Except in cities with a population of 1,000,000 or more, the local legislative body of the jurisdiction within which the premises are located.



## **THE MICHIGAN VEHICLE CODE (EXCERPTS)**

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date."

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### **257.7b "Commercial quadricycle" defined.**

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Sec. 7b.

"Commercial quadricycle" means a vehicle that satisfies all of the following:

- (a) The vehicle has fully operative pedals for propulsion entirely by human power.
- (b) The vehicle has at least 4 wheels and is operated in a manner similar to a bicycle.
- (c) The vehicle has at least 6 seats for passengers.
- (d) The vehicle is designed to be occupied by a driver and powered either by passengers providing pedal power to the drive train of the vehicle or by a motor capable of propelling the vehicle in the absence of human power.
- (e) The vehicle is used for commercial purposes.
- (f) The vehicle is operated by the owner of the vehicle or an employee of the owner of the vehicle.

History: Add. 2015, Act 127, Imd. Eff. July 15, 2015

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### **257.33 "Motor vehicle" defined.**

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Sec. 33.

"Motor vehicle" means every vehicle that is self-propelled, but for purposes of chapter 4 of this act motor vehicle does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under this act. Motor vehicle does not include an electric patrol vehicle being operated in compliance with the electric patrol vehicle act, 1997 PA 55, MCL 257.1571 to 257.1577. Motor vehicle does not include an electric personal assistive mobility device. Motor vehicle does not include an electric carriage. Motor vehicle does not include a commercial quadricycle.

History: 1949, Act 300, Eff. Sept. 23, 1949 ;-- Am. 1993, Act 300, Eff. Jan. 1, 1994 ;-- Am. 1995, Act 140, Imd. Eff. July 10, 1995 ;-- Am. 1997, Act 56, Imd. Eff. July 1, 1997 ;-- Am. 2002, Act 494, Imd. Eff. July 3, 2002 ;-- Am. 2013, Act 36, Imd. Eff. May 21, 2013 ;-- Am. 2015, Act 127, Imd. Eff. July 15, 2015

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### **257.319 Mandatory suspension of license; record of conviction for certain crimes; waiver; restricted license; prior convictions; violations arising out of same transaction.**

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Sec. 319.

- (1) The secretary of state shall immediately suspend a person's license as provided in this section upon receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of another state substantially corresponding to a law of this state, or, beginning October 31, 2010, a law of the United States substantially corresponding to a law of this state.
- (2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:
  - (a) Fraudulently altering or forging documents pertaining to motor vehicles in violation of section 257.
  - (b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.
  - (c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or section 626c.
  - (d) A felony in which a motor vehicle was used. As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person convicted operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:
    - (i) The vehicle was used as an instrument of the felony.
    - (ii) The vehicle was used to transport a victim of the felony.
    - (iii) The vehicle was used to flee the scene of the felony.
    - (iv) The vehicle was necessary for the commission of the felony.
  - (e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.
  - (f) Beginning October 31, 2010, a violation of section 601d.
- (3) The secretary of state shall suspend the person's license for 90 days for any of the following crimes:
  - (a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.
  - (b) A violation of section 601b(2), section 601c(1), section 653a(3), section 626 before October 31, 2010, or, beginning October 31, 2010, section 626(2).
  - (c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.
  - (d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.
- (4) The secretary of state shall suspend the person's license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382. For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary shall suspend the person's license as follows:
  - (a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.
  - (b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.
- (5) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person's license as follows:
  - (a) If the person has no prior conviction for that offense within 7 years, for 90 days.
  - (b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.
- (6) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person's license as follows:
  - (a) If the person has 1 prior conviction for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.
  - (b) If the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.
- (7) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:
  - (a) For 180 days for a violation of section 625(1) or (8) before October 31, 2010 or, beginning October 31, 2010, section 625(1)(a) or (b) or (8) if the person has no prior convictions within

- (b) 7 years. The secretary of state may issue the person a restricted license during a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 30 days of suspension.
- (c) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of alcoholic liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
- (d) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
- (e) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.
- (f) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.
- (g) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.
- (h) Beginning October 31, 2010, for 1 year for a violation of section 625(1)(c) if the person has no prior convictions within 7 years or not more than 2 convictions within 10 years. The secretary of state may issue the person a restricted license, except that the secretary of state shall not issue a restricted license during the first 45 days of suspension.
- (i) Beginning October 31, 2010, the department shall order a person convicted of violating section 625(1)(c) not to operate a motor vehicle under a restricted license issued under subdivision (g) unless the vehicle is equipped with an ignition interlock device approved, certified, and installed as required under sections 625k and 625l. The ignition interlock device may be removed after the interlock device provider provides the department with verification that the person has operated the vehicle with no instances of reaching or exceeding a bloodalcohol level of 0.025 grams per 210 liters of breath. This subdivision does not prohibit the removal of the ignition interlock device for any of the following:
  - (i) A start-up test failure that occurs within the first 2 months after installation of the device. As used in this subdivision, "start-up test failure" means that the ignition interlock device has prevented the motor vehicle from being started. Multiple unsuccessful attempts at 1 time to start the vehicle shall be treated as 1 start-up test failure only under this subparagraph.
  - (ii) A start-up test failure occurring more than 2 months after installation of the device, if not more than 15 minutes after detecting the start-up test failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.
  - (iii) A retest prompted by the device, if not more than 5 minutes after detecting the retest failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.
- (j) Beginning October 31, 2010, if an individual violates the conditions of the restricted license issued under subdivision (g) or operates or attempts to operate a motor vehicle with a blood alcohol level of 0.025 grams per 210 liters of breath, the secretary of state shall impose an additional like period of suspension and restriction as prescribed under subdivision (g). This subdivision does not require an additional like period of suspension and restriction for any of the following:
  - (i) A start-up test failure within the first 2 months after installation of the ignition interlock device. As used in this subdivision, "start-up test failure" means that the ignition interlock device has prevented the motor vehicle from being started. Multiple unsuccessful attempts at 1 time to start the vehicle shall be treated as 1 start-up test failure only under this subparagraph.
  - (ii) A start-up test failure occurring more than 2 months after installation of the device, if not more than 15 minutes after detecting the start-up test failure the

person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

(iii) Any retest prompted by the device, if not more than 5 minutes after detecting the retest failure the person delivers a breath sample that the ignition interlock device analyzes as having an alcohol level of less than 0.025 grams per 210 liters of breath.

- (8) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:
  - (a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.
  - (b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.
- (9) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.
- (10) For a violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school, the secretary of state shall suspend the license of a person 14 years of age or over but less than 21 years of age until 3 years after the date of the conviction or juvenile disposition for the violation. The secretary of state may issue the person a restricted license after the first 365 days of suspension.
- (11) For a second or subsequent violation of section 701(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701, by an individual who is not a retail licensee or a retail licensee's clerk, agent, or employee, the secretary of state shall suspend the person's license for 180 days. <<The secretary of state may issue a person a restricted license during all or a specified portion of the suspension.>>
- (12) Except as provided in subsection (15), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323. If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.
- (13) The secretary of state may waive a restriction, suspension, or revocation of a person's license imposed under this act if the person submits proof that a court in another state revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a restriction, suspension, or revocation prescribed under this act for the violation and that the revocation, suspension, or restriction was served for the violation, or may grant a restricted license.
- (14) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.
- (15) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle.
- (16) Except as provided in subsection (16), a restricted license issued under this section shall permit the person to whom it is issued to take any driving skills test required by the secretary of state and to operate a vehicle under 1 or more of the following circumstances:
  - (a) In the course of the person's employment or occupation.
  - (b) To and from any combination of the following:
    - (i) The person's residence.
    - (ii) The person's work location.
    - (iii) An alcohol or drug education or treatment program as ordered by the court.
    - (iv) The court probation department.
    - (v) A court-ordered community service program.
    - (vi) An educational institution at which the person is enrolled as a student.
    - (vii) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.
- (17) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.
- (18) Subject to subsection (22), as used in subsection (8), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

- (a) Except as provided in subsection (21), a violation or attempted violation of any of the following:
- (i) Section 625, except a violation of section 625(2), or a violation of any prior enactment of section 625 in which the defendant operated a vehicle while under the influence of intoxicating or alcoholic liquor or a controlled substance, or a combination of intoxicating or alcoholic liquor and a controlled substance, or while visibly impaired, or with an unlawful bodily alcohol content.
  - (ii) Section 625m.
  - (iii) Former section 625b.
- (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.
- (c) Beginning October 31, 2010, a violation of section 601d or section 626(3) or (4).
- (19) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.
- (20) If 2 or more convictions described in subsection (20) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

**History:** 1949, Act 300, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 270, Eff. Sept. 28, 1951 ;-- Am. 1967, Act 226, Eff. Nov. 2, 1967 ;-- Am. 1976, Act 285, Eff. Apr. 1, 1977 ;-- Am. 1980, Act 398, Eff. Mar. 31, 1981 ;-- Am. 1980, Act 518, Eff. Mar. 31, 1981 ;-- Am. 1981, Act 159, Eff. Mar. 31, 1982 ;-- Am. 1981, Act 222, Imd. Eff. Jan. 5, 1982 ;-- Am. 1982, Act 64, Eff. Mar. 30, 1983 ;-- Am. 1982, Act 310, Eff. Mar. 30, 1983 ;-- Am. 1986, Act 177, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 205, Eff. July 1, 1988 ;-- Am. 1988, Act 406, Eff. Mar. 30, 1989 ;-- Am. 1991, Act 93, Eff. Jan. 1, 1992 ;-- Am. 1993, Act 359, Eff. Sept. 1, 1994 ;-- Am. 1994, Act 211, Eff. Nov. 1, 1994 ;-- Am. 1994, Act 449, Eff. May 1, 1995 ;-- Am. 1996, Act 493, Eff. Apr. 1, 1997 ;-- Am. 1996, Act 587, Eff. June 1, 1997 ;-- Am. 1998, Act 347, Eff. Oct. 1, 1999 ;-- Am. 1999, Act 118, Eff. Apr. 1, 2000 ;-- Am. 1999, Act 267, Imd. Eff. Dec. 29, 1999 ;-- Am. 2000, Act 152, Imd. Eff. June 12, 2000 ;-- Am. 2000, Act 460, Eff. Mar. 28, 2001 ;-- Am. 2001, Act 103, Eff. Oct. 1, 2001 ;-- Am. 2012, Act 306, Imd. Eff. Oct. 1, 2012. 2001, Act 134, Eff. Feb. 1, 2002 ;-- Am. 2001, Act 159, Eff. Feb. 1, 2002 ;-- Am. 2002, Act 422, Eff. Oct. 1, 2002 ;-- Am. 2002, Act 534, Eff. Oct. 1, 2002 ;-- Am. 2003, Act 61, Eff. Sept. 30, 2003 ;-- Am. 2004, Act 362, Imd. Eff. Oct. 4, 2004 ;-- Am. 2008, Act 462, Eff. Oct. 31, 2010 ;-- Am. 2008, Act 463, Eff. Oct. 31, 2010 ;-- Am. 2010, Act 155, Eff. Jan. 1, 2011 ; Am. 2010, Act 267, Imd. Eff. Dec. 14, 2010.

**Compiler's Notes:** Section 2 of Act 310 of 1982 provides: "All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this amendatory act takes effect are saved and may be consummated according to the law in force when they are commenced. This amendatory act shall not be construed to affect any prosecution pending or initiated before the effective date of this amendatory act, or initiated after the effective date of this amendatory act for an offense committed before that effective date." Section 2 of Act 205 of 1988 provides: "This amendatory act shall take effect July 1, 1988 and apply to violations which occur on or after that date."

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## **257.518a Commercial quadricycle; liability insurance; minimum limit.**

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Sec. 518a.

The owner of a commercial quadricycle shall furnish bodily injury and property damage liability insurance with a minimum combined single limit of \$2,000,000.00 for all persons injured or for property damage.

**History:** Add. 2015, Act 126, Imd. Eff. July 15, 2015

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## **257.624a Transportation or possession of alcoholic liquor in open or uncapped container open or upon which seal broken; violation as misdemeanor; exception; subsections (1) and (2) inapplicable to passenger in commercial quadricycle; definitions.**

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Sec. 624a.

(1) Except as provided in subsections (2) and (5), a person who is an operator or occupant shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger area of a vehicle upon a highway, or within the passenger area of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in this state.

(2) Except as otherwise provided in subsection (5), a person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger area of a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles in this state, if the vehicle does not have a trunk or compartment separate from the passenger area, and the container is in a locked glove

compartment, behind the last upright seat, or in an area not normally occupied by the operator or a passenger.

(3) A person who violates this section is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703. A court shall not accept a plea of guilty or nolo contendere for a violation of this section from a person charged solely with a violation of section 625(6).

(4) This section does not apply to a passenger in a chartered vehicle authorized to operate by the state transportation department.

(5) Except as otherwise provided in this subsection, unless prohibited by local ordinance, subsections (1) and (2) do not apply to a passenger in a commercial quadricycle. A passenger in a commercial quadricycle shall not transport or possess alcoholic liquor other than beer, wine, spirits, or a mixed spirits drink.

(6) As used in this section:

(a) "Glove compartment" means a recess with a hinged and locking door in the dashboard of a motor vehicle.

(b) "Passenger area" means the area designed to seat the operator and passengers of a motor vehicle while it is in operation and any area that is readily accessible to the operator or a passenger while in his or her seating position, including the glove compartment.

History: Add. 1991, Act 98, Eff. Jan. 1, 1992 ;-- Am. 1994, Act 211, Eff. Nov. 1, 1994 ;-- Am. 1996, Act 493, Eff. Apr. 1, 1997 ;-- Am. 1998, Act 349, Eff. Oct. 1, 1999 ;-- Am. 2012, Act 306, Imd. Eff. Oct. 1, 2012 ;-- Am. 2015, Act 126, Imd. Eff. July 15, 2015

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## **257.624b      Transport or possession of alcoholic liquor by person less than 21 years of age.**

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Sec. 624b.

- (1) A person less than 21 years of age shall not knowingly transport or possess alcoholic liquor in a motor vehicle as an operator or occupant unless the person is employed by a licensee under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, a common carrier designated by the liquor control commission under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the liquor control commission, or an agent of the liquor control commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle. A person who violates this subsection is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.
- (2) Within 30 days after the conviction for a violation of subsection (1) by the operator of a motor vehicle, which conviction has become final, the arresting law enforcement officer or the officer's superior may make a complaint before the court from which the warrant was issued. The complaint shall be under oath and shall describe the motor vehicle in which alcoholic liquor was possessed or transported by the operator, who is less than 21 years of age, in committing the violation and requesting that the motor vehicle be impounded as provided in this section. Upon the filing of the complaint, the court shall issue to the owner of the motor vehicle an order to show cause why the motor vehicle should not be impounded. The order to show cause shall fix a date and time for a hearing, which shall not be less than 10 days after the issuance of the order. The order shall be served by delivering a true copy to the owner not less than 3 full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the

last known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in section 403.

- (3) If the court determines upon the hearing of the order to show cause, from competent and relevant evidence, that at the time of the commission of the violation the motor vehicle was being driven by the person less than 21 years of age with the express or implied consent or knowledge of the owner in violation of subsection (1), and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court may authorize the impounding of the vehicle for a period of not less than 15 days or more than 30 days. The court's order authorizing the impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. The owner of the vehicle may appeal the order to the circuit court and the provisions governing the taking of appeals from judgments for damages apply to the appeal. This section does not prevent a bona fide lienholder from exercising rights under a lien.
- (4) A person who knowingly transfers title to a motor vehicle for the purpose of avoiding this section is guilty of a misdemeanor.
- (5) A law enforcement agency, upon determining that a person less than 18 years of age allegedly violated this section, shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated this section is less than 18 years of age and may be made in person, by telephone, or by first-class mail.

HISTORY: Added 1996, Act 493, Eff. Apr. 1, 1997; -Am. 1998, Act 349, Eff. Oct. 1, 1999; Am. 2003, Act 61, Eff. Sept 30, 2003.

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**257.625p      Operation of commercial quadricycle by person with certain alcohol content; prohibition; violation as misdemeanor; penalty.**

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Sec. 625p.

(1) A person, whether licensed or not, who has an alcohol content of greater than 0.00 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial quadricycle within this state.

(2) A person who is convicted of a violation of this section or a local ordinance substantially corresponding to this section is guilty of a misdemeanor punishable by 1 of the following:

(a) If the person has an alcohol content of at least 0.04 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.

(b) If the person has an alcohol content of greater than 0.00 grams, but less than 0.04 grams, per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, a fine of not more than \$300.00, together with costs of the prosecution.

History: Add. 2015, Act 126, Imd. Eff. July 15, 2015

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**257.657      Rights and duties of persons riding bicycle, electric personal assistive mobility device, moped, low-speed vehicle, or commercial quadricycle.**

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Sec. 657.

Each person riding a bicycle, electric personal assistive mobility device, or moped or operating a low-speed vehicle or commercial quadricycle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle under this chapter, except for special regulations in this article and except for the provisions of this chapter that by their nature do not apply.

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**257.660 Electric personal assistive mobility device, low-speed vehicle, or moped; operation; limitations; applicability to police officer; regulation by local government; prohibitions; regulation by department of natural resources.**

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Sec. 660.

(1) A person operating an electric personal assistive mobility device, low-speed vehicle, or moped upon a roadway shall ride as near to the right side of the roadway as practicable and shall exercise due care when passing a standing vehicle or one proceeding in the same direction. A motorcycle is entitled to full use of a lane, and a motor vehicle shall not be driven in such a manner as to deprive a motorcycle of the full use of a lane. This subsection does not apply to motorcycles operated 2 abreast in a single lane.

(2) A person riding an electric personal assistive mobility device, motorcycle, or moped upon a roadway shall not ride more than 2 abreast except on a path or part of a roadway set aside for the exclusive use of those vehicles.

(3) Where a usable and designated path for bicycles is provided adjacent to a highway or street, a person operating an electric personal assistive mobility device may, by local ordinance, be required to use that path.

(4) A person operating a motorcycle, moped, low-speed vehicle, or electric personal assistive mobility device shall not pass between lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a 2-way street or on the left or right of traffic in the case of a 1-way street, in an unoccupied lane.

(5) A person operating an electric personal assistive mobility device on a sidewalk constructed for the use of pedestrians shall yield the right-of-way to a pedestrian and shall give an audible signal before overtaking and passing the pedestrian.

(6) A moped, low-speed vehicle, or commercial quadricycle shall not be operated on a sidewalk constructed for the use of pedestrians.

(7) A low-speed vehicle or commercial quadricycle shall be operated at a speed of not more than 25 miles per hour. A low-speed vehicle shall not be operated on a highway or street with a speed limit of more than 35 miles per hour except for the purpose of crossing that highway or street. A commercial quadricycle shall not be operated on a highway or street with a speed limit of more than 45 miles per hour except for the purpose of crossing that highway or street. An individual shall not operate a commercial quadricycle that is equipped with a motor unless he or she has a valid operator's license issued under this act. The state transportation department may prohibit the operation of a low-speed vehicle or commercial quadricycle on any highway or street under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

(8) This section does not apply to a police officer in the performance of his or her official duties.

(9) An electric personal assistive mobility device shall be operated at a speed of not more than 15 miles per hour and shall not be operated on a highway or street with a speed limit of more than 25 miles per hour except to cross that highway or street.

(10) The governing body of a county, a city, a village, an entity created under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or a township may, by ordinance, which is based on the health, safety, and welfare of the citizens, regulate the operation of electric personal assistive mobility devices or commercial quadricycles on sidewalks, highways or streets, or crosswalks. Except as

otherwise provided in this subsection, a governing body of a county, city, village, entity created under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or township may prohibit the operation of electric personal assistive mobility devices or commercial quadricycles in an area open to pedestrian traffic adjacent to a waterfront or on a trail under its jurisdiction or in a downtown or central business district. Signs indicating the regulation shall be conspicuously posted in the area where the use of an electric personal assistive mobility device or commercial quadricycle is regulated.

(11) Operation of an electric personal assistive mobility device is prohibited in a special charter city and a state park under the jurisdiction of the Mackinac Island State Park commission.

(12) Operation of an electric personal assistive mobility device may be prohibited in a historic district.

(13) The department of natural resources may by order regulate the use of electric personal assistive mobility devices on all lands under its control.

**History:** 1949, Act 300, Eff. Sept. 23, 1949 ;-- Am. 1966, Act 207, Eff. Mar. 10, 1967 ;-- Am. 1969, Act 134, Eff. June 1, 1970 ;-- Am. 1975, Act 209, Imd. Eff. Aug. 25, 1975 ;-- Am. 1975, Act 273, Eff. Mar. 31, 1976 ;-- Am. 1976, Act 439, Imd. Eff. Jan. 13, 1977 ;-- Am. 1994, Act 348, Eff. Mar. 30, 1995 ;-- Am. 2000, Act 82, Eff. July 1, 2000 ;-- Am. 2002, Act 494, Imd. Eff. July 3, 2002 ;-- Am. 2006, Act 339, Imd. Eff. Aug. 15, 2006 ;-- Am. 2015, Act 126, Imd. Eff. July 15, 2015  
**Compiler's Notes:** For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919. For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

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**257.662      Bicycle, electric personal assistive mobility device, or commercial quadricycle; equipment; violation as civil infraction.**

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Sec. 662.

(1) A bicycle, electric personal assistive mobility device, or commercial quadricycle being operated on a roadway between 1/2 hour after sunset and 1/2 hour before sunrise shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(2) A bicycle shall be equipped with a brake that enables the operator to make the braked wheels skid on dry, level, clean pavement.

(3) An electric personal assistive mobility device or commercial quadricycle shall enable the operator to bring it to a controlled stop.

(4) A person shall not sell, offer for sale, or deliver for sale in this state a bicycle or a pedal for use on a bicycle, either of which was manufactured after January 1, 1976, unless it is equipped with a type of reflex reflector located on the front and rear surfaces of the pedal. The reflector elements may be either integral with the construction of the pedal or mechanically attached, but shall be sufficiently recessed from the edge of the pedal, or of the reflector housing, to prevent contact of the reflector element with a flat surface placed in contact with the edge of the pedal. The pedal reflectors shall be visible from the front and rear of the bicycle during the nighttime from a distance of 200 feet when directly exposed to the lower beam head lamps of a motor vehicle.

(5) A person shall not sell, offer for sale, or deliver for sale in this state a bicycle manufactured after January 1, 1976 or an electric personal assistive mobility device unless it is equipped with either tires that have reflective sidewalls or with wide-angle prismatic spoke reflectors. If the bicycle or the electric personal assistive mobility device is manufactured with reflective sidewalls, the reflective portion of the sidewall shall form a continuous circle on the sidewall, and may not be removed from the tire without removal of tire material. If the bicycle is equipped with wide-angle prismatic spoke reflectors, the reflectors of the front wheel shall be essentially colorless or amber, and the reflectors on the rear wheel shall be essentially colorless or red. Reflective sidewalls or spoke reflectors shall cause the bicycle to be visible

from all distances from 100 feet to 600 feet when viewed under lawful low beam motor vehicle head lamps under normal atmospheric conditions.

(6) A person who violates subsection (1) or (2) is responsible for a civil infraction.

**History:** 1949, Act 300, Eff. Sept. 23, 1949 ;-- Am. 1975, Act 209, Imd. Eff. Aug. 25, 1975 ;-- Am. 1978, Act 510, Eff. Aug. 1, 1979 ;-- Am. 2000, Act 131, Imd. Eff. June 1, 2000 ;-- Am. 2002, Act 494, Imd. Eff. July 3, 2002 ;-- Am. 2015, Act 126, Imd. Eff. July 15, 2015

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**257.901 Violation as misdemeanor; penalty; civil infraction.**

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Sec. 901.

(1) Except as otherwise provided in subsection (3), it is a misdemeanor for a person to violate this act, unless that violation is by this act or other law of this state declared to be a felony or a civil infraction.

(2) Unless another penalty is provided in this act or by the laws of this state, a person convicted of a misdemeanor for the violation of this act shall be punished by a fine of not more than \$100.00, or by imprisonment for not more than 90 days, or both.

(3) Except as otherwise provided in this act, a violation of this act by the owner of a commercial quadricycle arising out of the ownership or operation of the commercial quadricycle is a civil infraction.

**History:** 1949, Act 300, Eff. Sept. 23, 1949 ;-- Am. 1969, Act 240, Eff. Mar. 20, 1970 ;-- Am. 1978, Act 510, Eff. Aug. 1, 1979 ;-- Am. 2015, Act 126, Imd. Eff. July 15, 2015

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**257.907 Civil infraction; payment of civil fine and costs; limitation; program of treatment, education, or rehabilitation; sanctions; schedule of civil fines, costs, and assessments; recommended range of civil fines and costs; certification of repair of defective equipment; collection of civil fines or costs; noncompliance with order or judgment; waiver of fine, cost, and assessment; civil infraction arising out of ownership or operation of commercial quadricycle; "moving violation" defined.**

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Sec. 907.

(1) A violation of this act, or a local ordinance substantially corresponding to a provision of this act, that is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.

(2) If a person is determined under sections 741 to 750 to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, if the civil infraction was a moving violation that resulted in an at-fault collision with another vehicle, a person, or any other object, the civil fine ordered under this section shall be increased by \$25.00 but the total civil fine shall not exceed \$100.00. However, for a violation of section 602b, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of \$100.00 for a first offense and \$200.00 for a second or subsequent offense. For a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$250.00. For a violation of section 676c, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of \$1,000.00. For a violation of section 328, the civil fine ordered under this subsection shall be not more than \$50.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed \$10.00, subject to subsection (12). For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. For a violation of section 240, the civil fine ordered under this subsection shall be \$15.00. For a violation of section 252a(1), the civil fine ordered under this subsection shall be \$50.00. For a

violation of section 676a(3), the civil fine ordered under this section shall be not more than \$10.00. For a first violation of section 319f(1), the civil fine ordered under this section shall be not less than \$2,500.00 or more than \$2,750.00; for a second or subsequent violation, the civil fine shall be not less than \$5,000.00 or more than \$5,500.00. For a violation of section 319g(1)(a), the civil fine ordered under this section shall be not more than \$10,000.00. For a violation of section 319g(1)(g), the civil fine ordered under this section shall be not less than \$2,750.00 or more than \$25,000.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) Except as provided in this subsection, if a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00.

(4) If a civil fine is ordered under subsection (2) or (3), the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Costs shall not be ordered in excess of \$100.00. A civil fine ordered under subsection (2) or (3) shall not be waived unless costs ordered under this subsection are waived. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4) and the justice system assessment ordered under subsection (13), the judge or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court magistrate shall impose the sanctions permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines, costs, and assessments to be imposed for civil infractions that occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations that are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine, costs, and assessments upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.

(10) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or a justice system assessment ordered under subsection (13), or an installment of the fine, costs, or assessment, may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) If a person fails to comply with an order or judgment issued under this section within the time prescribed by the court, the driver's license of that person shall be suspended under section 321a until full

compliance with that order or judgment occurs. In addition to this suspension, the court may also proceed under section 908.

(12) The court may waive any civil fine, cost, or assessment against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(13) In addition to any civil fines or costs ordered to be paid under this section, the judge or district court magistrate shall order the defendant to pay a justice system assessment of \$40.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment collected to the state treasury to be deposited into the justice system fund created in section 181 of the revised judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(14) If a person has received a citation for a violation of section 223, the court shall waive any civil fine, costs, and assessment, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

(15) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance under section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act upon receipt of verification by the court that the person, before the appearance date on the citation, produced valid proof of insurance that was in effect at the time the violation of section 328(1) occurred. Insurance obtained subsequent to the time of the violation does not make the person eligible for a waiver under this subsection.

(16) If a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act and the civil infraction arises out of the ownership or operation of a commercial quadricycle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$500.00.

(17) As used in this section, "moving violation" means an act or omission prohibited under this act or a local ordinance substantially corresponding to this act that involves the operation of a motor vehicle and for which a fine may be assessed.

**History:** Add. 1978, Act 510, Eff. Aug. 1, 1979 ;-- Am. 1980, Act 459, Imd. Eff. Jan. 15, 1981 ;-- Am. 1981, Act 117, Eff. Mar. 31, 1982 ;-- Am. 1982, Act 51, Eff. Mar. 30, 1983 ;-- Am. 1982, Act 301, Imd. Eff. Oct. 12, 1982 ;-- Am. 1984, Act 30, Eff. Apr. 28, 1984 ;-- Am. 1984, Act 364, Eff. Mar. 29, 1985 ;-- Am. 1985, Act 1, Eff. July 1, 1985 ;-- Am. 1988, Act 346, Eff. Jan. 1, 1989 ;-- Am. 1989, Act 89, Eff. Sept. 19, 1989 ;-- Am. 1995, Act 287, Imd. Eff. Jan. 9, 1996 ;-- Am. 1998, Act 103, Eff. Aug. 15, 1998 ;-- Am. 2001, Act 214, Imd. Eff. Dec. 27, 2001 ;-- Am. 2002, Act 534, Eff. Oct. 1, 2002 ;-- Am. 2003, Act 34, Eff. Oct. 1, 2003 ;-- Am. 2003, Act 73, Eff. Oct. 1, 2003 ;-- Am. 2004, Act 52, Eff. May 1, 2004 ;-- Am. 2004, Act 62, Eff. May 3, 2004 ;-- Am. 2004, Act 493, Eff. Oct. 1, 2005 ;-- Am. 2005, Act 1, Imd. Eff. Mar. 24, 2005 ;-- Am. 2006, Act 298, Imd. Eff. July 20, 2006 ;-- Am. 2008, Act 463, Eff. Oct. 31, 2010 ;-- Am. 2010, Act 59, Eff. July 1, 2010 ;-- Am. 2011, Act 159, Imd. Eff. Sept. 30, 2011 ;-- Am. 2013, Act 35, Eff. Aug. 20, 2013 ;-- Am. 2014, Act 303, Eff. Jan. 7, 2015 ;-- Am. 2015, Act 126, Imd. Eff. July 15, 2015

## **ADVERTISING**

(By authority conferred on the liquor control commission by section 215(1) of Act No. 58 of the Public Acts of 1998, as amended, being §436.1215(1) of the Michigan Compiled Laws)

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### **R 436.1301 Rescinded.**

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**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; rescinded 1979 ACS 4, Eff. Feb. 3, 1981.

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### **R 436.1303 Beer.**

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Rule 3.

Beer shall not be advertised in this state unless the advertising is in accordance with these rules and the federal malt beverage regulations published in 27 C.F.R., part 7, subpart F, 1936, as amended, as of January 1, 1975, which are incorporated herein by reference. Copies of the federal regulations are on file and available to the public in the Lansing office of the commission at cost.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC.

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### **R 436.1305 Wine.**

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Rule 5.

Wine shall not be advertised in this state unless the advertising is in accordance with these rules and the federal wine regulations published in 27, C.F.R., part 4, subpart G, 1935, as amended, as of January 1, 1975, which are incorporated herein by reference. Copies of the federal regulations are on file and available to the public in the Lansing office of the commission at cost.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC.

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### **R 436.1307 Spirits.**

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Rule 7.

Distilled spirits shall not be advertised in this state unless the advertising is in accordance with these rules and the federal distilled spirits regulations published in 27 C.F.R., part 5, subpart H, 1969, as of January 1, 1975, which are incorporated herein by reference. Copies of the federal regulations are on file and available to the public in the Lansing office of the commission at cost.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC.

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### **R 436.1309 Advertising approval.**

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Rule 9.

The commission reserves the right to review and reject advertising not in accordance with these rules. Upon written order of the commission, a manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler shall furnish full information as to the advertising to enable the commission to review the advertising.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; 1989 MR 1, Eff. Jan. 20, 1989.

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### **R 436.1311 Rescinded.**

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Rule 11.

**History:** 1979 AC; 2016 MR 4, Eff. Feb. 26, 2016.

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**R 436.1313 Inside advertising signs and displays.**

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**Rule 13.**

- (1) Except as provided for in this rule, a retail licensee shall ensure that an advertising sign for alcoholic liquor that is used inside the licensee's premises is an un-illuminated sign that does not have a total area of more than 3,500 square inches.
- (2) The total area of any other sign that is attached to, or a necessary part of, a sign is included in the 3,500 square inches limitation.
- (3) A sports/entertainment venue may utilize illuminated advertising signs and advertising signs that have a total area of more than 3,500 square inches in the arena area, concourse area, or private suite areas.
- (4) Any of the following entities may provide and install illuminated advertising signs and advertising signs that have a total area of more than 3,500 square inches per sign inside the arena area, concourse area, or private suite areas of a sports/entertainment venue as defined by R 436.1001(u):
  - (a) A brewer.
  - (b) A micro brewer.
  - (c) A wine maker.
  - (d) A small wine maker.
  - (e) An outstate seller of beer.
  - (f) An outstate seller of wine.
  - (g) An outstate seller of mixed spirit drink.
  - (h) A manufacturer of spirits.
  - (i) A manufacturer of mixed spirit drink.
  - (j) A vendor of spirits.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; Amended Eff. Feb. 17, 1994; 2000 MR 3, Eff. March 20, 2000; MR 11 2003.

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**R 436.1315 Retail advertising space**

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**Rule 15.**

A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler shall not sell or in any manner furnish to a retail licensee, and a retail licensee shall not accept, either of the following:

- (a) Advertising which has the name of the retail licensee on the advertising.
- (b) Money or other valuable consideration for advertising space in or upon the premises of the retail licensee.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; 1989 MR 1, Eff. Jan. 20, 1989.

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**R 436.1317 Brand promotion**

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**Rule 17.**

- (1) A salesperson or a vendor representative may do any of the following, on the licensed premises of a person who is licensed only to sell alcoholic liquor at retail for consumption off the licensed premises, with alcoholic liquor that is owned by the off-premises retail licensee:
  - (a) Build a display of those brands that are represented or sold by the salesperson or vendor representative.
  - (b) Mark the price on those brands that are represented or sold by the salesperson or vendor representative.
  - (c) Rotate those brands that are represented or sold by the salesperson or vendor representative.
  - (d) Place those brands that are represented or sold by the salesperson or vendor representative on shelves.
- (2) A salesperson or vendor representative shall not remove from shelves, or rearrange or otherwise disturb, any brand of alcoholic liquor that is not represented or sold by the salesperson or vendor representative.

**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; Amended Eff. Nov. 13, 1992.

## **CHURCH OR SCHOOL HEARINGS**

(By authority conferred on the liquor control commission by sections 7 and 17a of Act No. 8 of the Public Acts of the Extra Session of 1933, as amended, and section 33 of Act No. 306 of the Public Acts of 1969, being §§436.7, 436.17a, and 24.233 of the Michigan Compiled Laws)

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### **R 436.1951 "Act" defined.**

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#### Rule 1.

As used in these rules, "act" means 1998 P.A. 58, MCL 436.1101 et seq.

**History:** 1979 AC; 2003 AACS

**Editor's Note:** An obvious error in R 436.1951 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Annual Administrative Code Supplement, 2003. The memorandum requesting the correction was published in Michigan Register, 2003 MR 11.

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### **R 436.1953 Notice of application and proposed location.**

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#### Rule 3.

If the commission determines through investigation that the proposed location of an applicant is within 500 feet of a church or school, as defined in section 107(7) or 111(8) of the act, the clergyman of the church or superintendent of the school shall be notified of the application and the proposed location if the applicant desires 1 of the following:

- (a) A new license to sell alcoholic liquor for consumption on the premises or the transfer of location of an existing license to sell alcoholic liquor for consumption on the premises.
- (b) A new specially designated distributor license or the transfer of location of an existing specially designated distributor license.
- (c) A new specially designated merchant license in conjunction with a license to sell alcoholic liquor for consumption on the premises or the transfer of location of an existing specially designated merchant license in conjunction with a license to sell alcoholic liquor for consumption on the premises.

**History:** 1979 AC; 2003 AACS.

**Editor's Note:** An obvious error in R 436.1953 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Annual Administrative Code Supplement, 2003. The memorandum requesting the correction was published in Michigan Register, 2003 MR 11.

**Editor's Note:** An obvious error in R 436.1953 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Annual Administrative Code Supplement, 2003. The memorandum requesting the correction was published in Michigan Register, 2015 MR 11.

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### **R 436.1955 Filing of objection; copy to applicant; scheduling hearing.**

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#### Rule 5.

- (1) If the church or school objects to the issuance or transfer of location of the license, then the governing body of the church or school, by resolution, shall file the specific written objections with the Lansing office of the commission within 15 days of receipt of notification, unless granted additional time by the commission.
- (2) Upon receipt of the objections, the commission shall send a copy of the objections to the applicant.
- (3) The commission shall schedule a hearing pursuant to section 503 of the act within a reasonable period of time after receipt of the objections, unless the governing body of the church or school notifies the commission in writing that the objections have been resolved by the applicant and are being withdrawn.

**History:** 1979 AC; 2003 AACS.

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### **R 436.1957 Notice of hearing; basis for conduct of hearing.**

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#### Rule 7.

- (1) The governing body of the church or school and the applicant shall receive notice of the hearing not less than 7 days before it is held.
- (2) The hearing shall be conducted on the basis of the objections filed by the church or school.

**History:** 1979 AC.

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**R 436.1959 Burden of proceeding, closing arguments.**

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Rule 9.

- (1) The commission may, in its discretion, determine which party will have the burden of proceeding. The representative of the church or school may make the final argument. The representative of the church or school shall be prepared to show that the church or school which is objecting meets the definition of section 107(7) or 111(8) of the act.

**History:** 179 AC; 2003 AACs.

**Editor's Note:** An obvious error in R 436.1959 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Annual Administrative Code Supplement 2003. The memorandum requesting the correction was published in Michigan Register, 2015 MR 6.

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**R 436.1961 Hearing; procedures; findings of fact and conclusions of law.**

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Rule 11.

- (1) The hearing shall be conducted pursuant to the procedures established for a contested case in Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws.
- (2) The commission shall make findings of fact and conclusions of law.

**History:** 1954 ACS 87, Eff. Apr. 16, 1976; 1979 AC.

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**R 436.1963 Granting of the waiver.**

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Rule 13.

The commission shall waive the provisions of section 503 of the act where the applicant shows by competent, material and substantial evidence that a waiver of section 503 would not adversely affect the operation of the church or school.

**History:** 1954 ACS 87, Eff. Apr. 16, 1976; 1979 AC; -MR 10, Eff. May 30, 2003.

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