

- (4), or (5), the advertising items shall not have any use or value beyond the actual advertising of brands and prices of the alcoholic liquor.
- (3) Except for those orders that were approved for specific sponsorships or festivals, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may provide goods and services to another licensee that were approved by the commission pursuant to rules or orders adopted prior to January 1, 2014 and the following items:
- (a) Alcoholic liquor recipes literature.
 - (b) Calendars and matchbooks.
 - (c) Removable tap markers or signs.
 - (d) Table tents.
 - (e) Shelf talkers.
 - (f) Bottle neckers.
 - (g) Cooler stickers.
 - (h) Buttons, blinking and nonblinking.
 - (i) Menu clip-ons.
 - (j) Mirrors.
 - (k) Napkin holders.
 - (l) Spirits cold shot tap machines.
 - (m) Alcoholic liquor drink menus.
 - (n) Keg couplers that are lent to an on-premises retailer.
 - (o) Sporting event or entertainment tickets.
- (4) A wholesaler may sell brand logoed items to an off-premises licensee if those brand logoed items are contained within the packaging of an alcoholic liquor product that is to be sold to a consumer.
- (5) A retailer shall not use or possess, at its licensed premises, advertising items that have a use or value beyond the actual advertising of brands and prices of alcoholic liquor except for those allowed in subsections (3) and (4) or as otherwise provided in this subsection. A retailer may possess and use brand logoed barware that advertises spirits as long as those items are purchased from a manufacturer of spirits, vendor of spirits, salesperson, broker, or barware retailer. A retailer may possess and use brand logoed barware that advertises beer or wine as long as those items are purchased from a barware retailer. A retailer shall maintain the receipts of all purchased brand logoed barware for at least 3 years and shall make those receipts available for inspection by the commission as provided in section 217. Beginning in the 2015 licensing year, a retailer shall disclose, in a manner as prescribed by the commission on the application for renewal of an existing license, if any barware was purchased by the retailer during the immediately preceding license year.
- (6) In addition to the penalties provided under section 903, a manufacturer of beer or wine, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink that provides or sells barware and is not authorized to provide or sell barware is subject to a fine in an amount of up to \$2,500.00 as determined by the commission. Multiple violations resulting from the same incident may be treated as a single violation for purposes of issuance of any penalty imposed under this act.
- (7) An on-premises retailer that hosts an on-premises brand promotional event conducted by a wholesaler or supplier has 14 days after the event to remove from the premises any brand logoed merchandise from the event to maintain compliance with this section.
- (8) This act and rules promulgated under this act do not prevent a retailer that holds an off-premises license only from purchasing brand logoed inventory and selling that inventory to its customers.
- (9) Beginning after September 25, 2015, the commission may, by rule, add an item to or remove an item from the definition of barware. The commission shall not add or remove more than 1 item per rule and shall not promulgate more than 1 rule at a time on the definition of barware. The commission shall not issue a rule that adds refrigerator systems, draft systems, or furniture to the definition of barware. A rule, regulation, or order adopted after January 1, 2014 that is not adopted in accordance with this subsection and that is not consistent with this section or is in conflict with this section is void and unenforceable.
- (10) As used in this section:
- (a) "Barware" means the following brand logoed items:
 - (i) Trays.
 - (ii) Coasters.
 - (iii) Napkins.

- (iv) Shirts.
 - (v) Hats.
 - (vi) Pitchers.
 - (vii) Drinkware that is intended to be reused.
 - (viii) Bar mats.
 - (ix) Buckets.
 - (x) Bottle openers.
 - (xi) Stir rods.
 - (xii) Patio umbrellas.
 - (xiii) Any packaging used to hold and deliver the alcoholic liquor purchased by the retailer.
 - (xiv) Any other items that have been added by the commission pursuant to subsection (9).
- (b) "Barware retailer" means a person that offers brand logoed barware for sale to retailers, whether or not it is in their ordinary course of business, and that is not licensed as, or directly or indirectly affiliated with, a manufacturer of beer or wine, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink. For purposes of this subdivision, a licensing agreement that authorizes use of a brand logo does not constitute a direct or indirect affiliation.
- (c) "Broker" means a person, other than an individual, that is licensed by the commission and that is employed or otherwise retained by a manufacturer of spirits or a vendor of spirits to sell, promote, or otherwise assist in the sale or promotion of spirits.
- (d) "Indirectly affiliated" means, for purposes of this section only, that a person owns 5% or more of the voting interest of another person.
- (e) "Other valuable thing" means any goods, services, or intangible goods that are given, loaned, leased, or sold to another licensee that have value regardless of whether the value is nominal and includes, but is not limited to, goods, services, or intangible goods that provided any benefit, regardless of how nominal, to the licensee other than advertising the brands and prices of alcoholic liquor produced by the manufacturer, sold by the outstate seller of beer, the outstate seller of wine, or the outstate seller of mixed spirit drink, or distributed by the wholesaler, except for consumable goods and those goods, services, or intangible goods approved by rule or order of the commission prior to January 1, 2014.
- (f) "Salesperson" means a person who is employed by a vendor of spirits or a broker and who is licensed by the commission to sell, deliver, or promote, or otherwise assist in the sale of, spirits in this state.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010 ;-- Am. 2014, Act 47, Imd. Eff. Mar. 25, 2014; Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014

- (r) Special licenses, a fee of \$50.00 per day, except that the fee for that license or permit issued to any bona fide nonprofit association, duly organized and in continuous existence for 1 year before the filing of its application, is \$25.00. Not more than 12 special licenses may be granted to any organization, including an auxiliary of the organization, in a calendar year.
 - (s) Airlines licensed to carry passengers in this state that sell, offer for sale, provide, or transport alcoholic liquor, \$600.00.
 - (t) Brandy manufacturer, \$100.00.
 - (u) Mixed spirit drink manufacturer, \$100.00.
 - (v) Brewpub, \$100.00.
 - (w) Class G-1, \$1,000.00.
 - (x) Class G-2, \$500.00.
 - (y) Motorsports event license, the amount as described and determined under section 518(2).
 - (z) Small distiller, \$100.00.
 - (aa) Wine auction license, \$50,000.00.
 - (bb) Nonpublic continuing care retirement center license, \$600.00.
 - (cc) Conditional license approved under subsection (6) and issued under subsection (7), \$300.00.
- (2) The fees provided in this act for the various types of licenses shall not be prorated for a portion of the effective period of the license. Notwithstanding subsection (1), the initial license fee for any licenses issued under section 531(3) or (4) is \$20,000.00. The renewal license fee shall be the amount described in subsection (1). However, the commission shall not impose the \$20,000.00 initial license fee for applicants whose license eligibility was already approved on July 20, 2005.
- (3) If the commission requires an applicant to submit fingerprints, the applicant shall have the fingerprints taken by a local law enforcement agency, the department of state police, or any other person qualified to take fingerprints as determined by the department of state police. The applicant shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police and the federal bureau of investigation for a criminal history check. After conducting the criminal history check, the department of state police shall provide the commission with a report of the criminal history check. The report shall contain criminal history record information concerning the person who is the subject of the criminal history check that is maintained by the department of state police. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted pursuant to this act and stored in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commission.
- (4) Except in the case of any resort or resort economic development license issued under section 531(2), (3), (4), or (5) or a license issued under section 521a, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. The application is considered to be received the date the application is received by any agency or department of this state. If the commission determines that an application is incomplete, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled for the following periods under any of the following circumstances:
- (a) If notice is sent by the commission of a deficiency in the application, until the date all of the requested information is received by the commission.
 - (b) For the time required to complete actions required by a person, other than the applicant or the commission, including, but not limited to, completion of construction or renovation of the licensed premises; mandated inspections by the commission or by any state, local, or federal agency; approval by the legislative body of a local unit of government; criminal history or criminal record checks; financial or court record checks; or other actions mandated by this act or rule or as otherwise mandated by law or local ordinance.
- (5) If the commission fails to issue or deny a license within the time required by this section, the commission shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the commission to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received

- at that same time. The commission shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.
- (6) If, in addition to a completed application under this section, an applicant submits a separate form requesting a conditional license with an acceptable proof of financial responsibility form under section 803, and an executed property document, the commission shall, after considering the arrest and conviction records or previous violation history in the management, operation, or ownership of a licensed business, approve or deny a conditional license. A conditional license issued under subsection (7) for the transfer of an existing license at the same location shall include any existing permits and approvals held in connection with that license. The following applicants may request a conditional license:
- (a) An applicant seeking to transfer ownership of or interest in an existing license at the same location to sell alcoholic liquor for consumption on or off the premises.
 - (b) An applicant seeking an initial license other than a specially designated distributor license or a license for the sale of alcoholic liquor for consumption on the premises.
- (7) The commission shall issue a conditional license to applicants approved under subsection (6) within 20 business days after receipt of a completed application and a completed conditional license request form and documentation for a conditional license at a single location. The commission may take up to 30 business days to issue conditional licenses to approved applicants seeking conditional licenses at multiple locations.
- (8) A conditional license approved under subsection (6) and issued under subsection (7) is nontransferable and nonrenewable. A conditional license approved under subsection (6) and issued under subsection (7) expires when the commission issues an order of denial of the license application that serves as the basis for the conditional license after all administrative remedies before the commission have been exhausted, expires 20 business days after the commission issues an order of approval of the license application that serves as the basis for the conditional license, expires when the licensee or conditional licensee notifies the commission in writing that the initial application should be canceled, or expires 1 year after the date the conditional license was issued, whichever occurs first. If a conditionally approved licensee fails to maintain acceptable proof of its financial responsibility, the commission shall, after due notice and proper hearing, suspend the conditional license until the licensee files an acceptable proof of financial responsibility form under section 803. If a conditional license is revoked, the conditional licensee shall not recover from a unit of local government any compensation for property, future income, or future economic loss due to the revocation.
- (9) Upon issuing a conditional license under subsection (7), the commission shall, until the conditional license expires under subsection (8), place an existing license under subsection (4) in escrow in compliance with R 436.1107 of the Michigan administrative code. If the conditional license expires because a transfer of an existing license was denied or because the license was not transferred within the 1-year period, an existing licensee may do 1 of the following:
- (a) Request that the commission release the license from escrow.
 - (b) Keep the license in escrow. The escrow date for compliance with R 436.1107 of the Michigan administrative code shall be the date the conditional license expires.
- (10) The chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:
- (a) The number of initial and renewal applications the commission received and completed within the 90-day time period described in subsection (4).
 - (b) The number of applications denied.
 - (c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (5).
- (11) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2002, Act 76, Imd. Eff. Mar. 15, 2002 ;-- Am. 2004, Act 266, Imd. Eff. July 23, 2004 ;-- Am. 2005, Act 97, Imd. Eff. July 20, 2005 ;-- Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005 ;-- Am. 2006, Act 539, Imd. Eff. Dec. 29, 2006 ;-- Am. 2008, Act 218, Imd. Eff. July 16, 2008 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010 ;-- Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010 ;-- Am. 2010, Act 279, Imd. Eff. Dec. 16, 2010 ;-- Am. 2013, Act 236; Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014
Constitutionality: In *Granholt v Heald*, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1 of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.

436.1526 Beer festival; issuance of special license; limitation; buying directly from licensed brewpub; "beer festival" defined.

Sec. 526.

- (1) The commission may issue a special license under this section to any organization conducting a beer festival. The application shall conform to the following:
 - (a) Be submitted by a nonprofit entity composed primarily of brewers, microbrewers, and brewpubs, as determined by the commission.
 - (b) Involve an event having for its primary purpose the showcasing of beer and its production.
 - (c) Be accompanied by a fee of \$25.00 per day of the event.
- (2) The special license shall not allow more than 6 events per calendar year conforming to the requirements of subsection (1).
- (3) A holder of a special license issued under this section may buy a quantity of beer, as determined appropriate under the circumstances by the commission, directly from any licensed brewpub for consumption only at the licensed event.
- (4) As used in this section and section 413, "beer festival" means an event at which the various types and kinds of beer and the production of that beer are showcased to the general public and at which the general public can purchase and sample the beer being showcased for consumption on the licensed premises.

History: Add. 2008, Act 258, Imd. Eff. Aug. 4, 2008

436.1527 Special license for nonprofit charitable organization; issuance; nontransferable; fee; auction.

Sec. 527.

- (1) The commission may issue a special license to a nonprofit charitable organization that is exempt from the payment of taxes under the internal revenue code for the purpose of allowing the organization to sell, at auction, wine donated to the organization.
- (2) A special license issued pursuant to subsection (1) is not transferable. The organization applying for the special license shall pay the fee required under section 525(1)(r).
- (3) An auction permitted under subsection (1) may occur upon premises which are otherwise licensed under this act to allow the sale of alcoholic liquor for consumption on the licensed premises.

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

- (25) A wholesaler shall not waive any of the rights granted in any provision of this section. Nothing in this section shall be construed to limit or prohibit good faith dispute settlements voluntarily entered into by the parties.
- (26) A successor to a supplier that continues in business as a brewer, an outstate seller of beer, or a master distributor shall be bound by all terms and conditions of each agreement of the supplier with a wholesaler licensed in this state that were in effect on the date on which the successor received the distribution rights of the previous supplier.
- (27) This section shall apply to agreements in existence on June 26, 1984, as well as agreements entered into or renewed after that date.
- (28) If a supplier engages in conduct prohibited under this section, a wholesaler with which the supplier has an agreement may maintain a civil action against the supplier to recover actual damages reasonably incurred as the result of the prohibited conduct. If a wholesaler engages in conduct prohibited under this section, a supplier with which the wholesaler has an agreement may maintain a civil action against the wholesaler to recover actual damages reasonably incurred as the result of the prohibited conduct.
- (29) A supplier that violates any provision of this section is liable for all actual damages and all court costs and reasonable attorney fees incurred by a wholesaler as a result of that violation. A wholesaler that violates any provision of this section is liable for all actual damages and all court costs and reasonable attorney fees incurred by the supplier as a result of that violation.
- (30) A supplier or wholesaler may bring an action for declaratory judgment for determination of any controversy arising pursuant to this section.
- (31) Except as otherwise provided in this section, if a court finds that a supplier has not acted in good faith in effecting an amendment, termination, cancellation, or nonrenewal of any agreement; or has unreasonably withheld its consent to any assignment, transfer, or sale of a wholesaler's business, it may award exemplary damages, as well as actual damages, court costs, and reasonable attorney fees to the wholesaler who has been damaged by the action of the supplier.
- (32) Upon proper application to the court, a supplier or wholesaler may obtain injunctive relief against any violation of this section. If the court grants injunctive relief or issues a temporary restraining order, bond shall not be required to be posted.
- (33) The procedure for resolving any violation of subsection (3)(a), (b), (c), (e), (f), (h), (i), (j), (k), (l), or (4) shall be the procedure prescribed by this act and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Any other violation of or dispute regarding this section, unless the dispute is resolved pursuant to subsections (18) to (24), shall only be resolved by a civil action in court as provided in this section and not by the commission.

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

436.1405 Brewpub license; requirements for issuance.

Sec. 405.

- (1) Subject to section 407, the commission shall issue a brewpub license to a person who is licensed as a food service establishment under the food law, 2000 PA 92, MCL 289.1101 to 289.8111, and who at the time of application for the brewpub license is licensed and continues to be licensed as 1 or more of the following:
- (a) Class C.
 - (b) Tavern.
 - (c) Class A hotel.
 - (d) Class B hotel.
- (2) A brewpub shall possess the necessary equipment for a satisfactory operation which shall be maintained in good working order and in a sanitary condition.
- (3) Agricultural products processed by a manufacturer shall comply with state law and with rules of the department of agriculture.
- (4) A brewpub shall not sell beer in this state unless it provides for each brand or type of beer sold a label that truthfully describes the content of each container and provides proof that a valid "application for and certification/exemption of label/bottle approval" has been obtained and is unrevoked under the federal malt beverage labeling requirements as published in 27 CFR 7.20 to 7.29, which are hereby adopted by reference.

- (5) Each location of a brewpub shall have a manufacturing operation on the licensed premises that complies with subsection (6). A brewpub shall apply for and obtain a license for each location of that brewpub. In determining the 18,000-barrel threshold, all brands and labels of the brewpub produced in this state shall be combined.
- (6) Beer shall be manufactured pursuant to federal malt beverage regulations published in 27 CFR 25.1 to 25.301, which are hereby adopted by reference.
- (7) Each brewpub shall submit to the commission, on forms acceptable to the commission and postmarked not later than January 15, April 15, July 15, and October 15 of each year, a beer tax report of all beer sold under their brewpub license during the preceding quarter. Each brewpub shall also submit, with the beer tax report, the payment of the required beer excise tax due pursuant to section 409.
- (8) A brewpub shall be the holder of a "brewers notice" as issued by the United States department of treasury, alcohol and tobacco tax and trade bureau in accordance with 27 CFR 25.61 to 25.85.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998; Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014

436.1407 Brewpub license; additional requirements; renewal and revocation of license.

Sec. 407.

- (1) The commission shall grant a brewpub license to a person who, in addition to complying with section 405, does all of the following:
 - (a) Pays the fee as prescribed in section 525.
 - (b) Provides evidence to the commission that not less than 25% of the gross sales of the restaurant during the 1-year licensure period are derived from the sale of food and nonalcoholic beverages prepared for consumption on the premises.
 - (c) Complies with section 405(3) through (8).
- (2) The commission shall renew a brewpub license of a person who does all of the following:
 - (a) Pays the fee as prescribed in section 525.
 - (b) Provides evidence to the commission that not less than 25% of the gross sales of the restaurant during the 1-year licensure period are derived from the sale of food and nonalcoholic beverages prepared for consumption on the premises.
 - (c) Complies with section 405(3) through (8).
- (3) The commission shall revoke a brewpub license if, during the 1-year licensure period, less than 25% of the gross sales of the restaurant are derived from the sale of food and nonalcoholic beverages prepared for consumption on the premises.

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

436.1409 Beer; taxation; payment of tax by wholesaler; designation; tax collection and reporting requirements by rule; exemptions; rebate; barrel as containing 31 gallons; rule prohibiting licensees from purchasing, receiving, possessing, or selling beer manufactured in designated states; judicial review; tax credit or refund; "eligible brewer" defined.

Sec. 409.

- (1) Except as provided in this section, the commission shall levy and collect a tax on all beer manufactured or sold in this state at the rate of \$6.30 per barrel if the beer is sold in bulk or in different quantities. Before February 1, 2015, the tax shall be paid by the brewer or brewpub if manufactured in this state or by the wholesaler or the person from whom purchased if manufactured outside this state, whichever is designated by the commission.
- (2) Beginning on and after February 1, 2015, the tax shall be paid by the brewer or brewpub if the beer is manufactured in this state or if the beer is manufactured outside this state the tax shall be paid by the wholesaler assigned to distribute that beer and the tax shall be levied and collected on the number of barrels the wholesaler actually sold to licensed retailers in this state. A brewer may designate a wholesaler to pay the tax on behalf of the brewer. If a brewer designates a wholesaler to pay the tax on its behalf, the brewer shall notify the commission of the designation and provide the commission with a copy of its brewer's report of operations that it filed with the alcohol and tobacco tax and trade bureau of the United States department of treasury for each calendar year.

MICHIGAN LIQUOR CONTROL CODE OF 1998

Act 58 of 1998

AN ACT to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2005, Act 320, Imd. Eff. Dec. 27, 2005

CHAPTER 1

436.1101 Short title.

Sec. 101.

This act shall be known and may be cited as the "Michigan liquor control code of 1998".

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

436.1103 Meanings of words and phrases.

Sec. 103.

For the purposes of this act, the words and phrases defined in this chapter have the meanings ascribed to them in this chapter, unless the context requires otherwise.

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

436.1105 Definitions; A, B.

Sec. 105.

- (1) "Alcohol" means the product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.
- (2) "Alcohol vapor device" means any device that provides for the use of air or oxygen bubbled through alcoholic liquor to produce a vapor or mist that allows the user to inhale this alcoholic vapor through the mouth or nose.
- (3) "Alcoholic liquor" means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the commission according to alcoholic content as belonging to 1 of the varieties defined in this chapter.
- (4) "Authorized distribution agent" means a person approved by the commission to do 1 or more of the following:

- (a) To store spirits owned by a supplier of spirits or the commission.
 - (b) To deliver spirits sold by the commission to retail licensees.
 - (c) To perform any function needed to store spirits owned by a supplier of spirits or by the commission or to deliver spirits sold by the commission to retail licensees.
- (5) "Bar" means a barrier or counter at which alcoholic liquor is sold to, served to, or consumed by customers.
 - (6) "Beer" means any beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, or other cereal in potable water.
 - (7) "Brand" means any word, name, group of letters, symbol, trademark, or combination thereof adopted and used by a supplier to identify a specific beer, malt beverage, wine, mixed wine drink, or mixed spirit drink product and to distinguish that product from another beer, malt beverage, wine, mixed wine drink, or mixed spirit drink product that is produced or marketed by that or another supplier. As used in this section and notwithstanding sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an outstate seller of beer, a wine maker, a small wine maker, an outstate seller of wine, a manufacturer of mixed wine drink, an outstate seller of a mixed wine drink, a mixed spirit drink manufacturer, or an outstate seller of mixed spirit drink.
 - (8) "Brand extension" means any brand which incorporates all or a substantial part of the unique features of a preexisting brand of the same supplier. As used in this section and notwithstanding sections 305(2)(j) and 403(2)(j), "supplier" means a brewer, an outstate seller of beer, a wine maker, a small wine maker, an outstate seller of wine, a manufacturer of mixed wine drink, an outstate seller of a mixed wine drink, a mixed spirit drink manufacturer, or an outstate seller of mixed spirit drink.
 - (9) "Brandy" means an alcoholic liquor as defined in 27 CFR 5.22(d) (1980).
 - (10) "Brandy manufacturer" means a wine maker or a small wine maker licensed under this act to manufacture, rectify, or blend brandy only and no other spirit. The commission may approve a brandy manufacturer to sell brandy that it manufactures, blends or rectifies, or both, at its licensed premises or at other premises authorized in this act.
 - (11) "Brewer" means a person located in this state that is licensed to manufacture and sell to licensed wholesalers beer produced by it.
 - (12) "Brewpub" means a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 18,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998; -- Am. 2005, Act 320, Imd. Eff. Dec. 27, 2005; Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014

436.1107 Definitions; C to L

Sec. 107.

- (1) "Cash" means money in hand, bank notes, demand deposits at a bank, or legal tender, which a creditor must accept according to law. Cash does not include call loans, postdated checks, or promissory notes.
- (2) "Class C license" means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises.
- (3) "Class G-1 license" means a place licensed to sell at retail beer, wine, mixed spirit drink, and spirits for consumption on the premises at a golf course having at least 18 holes that measure at least 5,000 yards and which license is issued only to a facility which permits member access by means of payments that include annual paid membership fees.
- (4) "Class G-2 license" means a place licensed to sell at retail beer and wine for consumption on the premises at a golf course having at least 18 holes that measure at least 5,000 yards and which license is issued only to a facility which permits member access by means of payments that include annual paid membership fees.
- (5) "Club" means a nonprofit association, whether incorporated or unincorporated, organized for the promotion of some common purpose, the object of which is owning, hiring, or leasing a building, or

- federal alcohol administration act and approved by written order of the commission.
- (4) A Michigan manufacturer shall not bottle bulk domestic or imported wine for sale in any state without a written order of approval from the commission.
 - (5) A Michigan manufacturer shall not manufacture or bottle wine for any other manufacturer without a written order of approval from the commission.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1979 AC.

R 436.1717 Restraining orders; record.

Rule 17.

- (1) If wine has not been manufactured in accordance with R 436.1708, then the commission may issue a written order restraining a wine manufacturer from selling, offering for sale, using for blending purposes, or otherwise using the wine, whether it is in the finished state or in the course of manufacture. The order shall remain in force until rescinded or otherwise disposed of by the commission.
- (2) A manufacturer shall keep a complete record, on forms prescribed by the commission, of all wines manufactured.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1979 AC; 1979 ACS 1, Eff. Jan. 1, 1980;- 2000 MR 3, Eff. March 20, 2000.

R 436.1719 Requirements for sale of bottled wine.

Rule 19.

- (1) Bottled wine shall not be offered for sale, kept for sale, sold, delivered, or otherwise introduced into this state unless all of the following provisions have been complied with:
 - (a) The wine is bottled, packaged, marked, branded, and labeled under these rules.
 - (b) The wine label truthfully describes the contents of the container in accordance with these rules and the federal wine regulations published in 27 C.F.R. part 4, subpart D, §§4.1 to 4.80, of 1935, as amended, which are adopted in these rules by reference. Copies of the adopted provisions may be obtained either from the Superintendent of Documents, United States Government Printing Office (GPO), Washington, DC 20402 or from the gpo website at <http://wwbookstore.gpo.gov> at a cost of \$37.00 each as of the time of adoption of these rules, or free of charge from the gpo website at <http://www.gpoaccess.gov/cfr/>. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Licensing and Regulatory Affairs, Secondary Complex, 7150 Harris Drive, P.O. Box 30005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules.
 - (c) The wine has received a registration number of approval from the commission.
- (2) Bottled wine shall not be shipped, delivered, or otherwise introduced into this state unless it is accompanied by an invoice, manifest, or other shipping document listing the quantity of bottled wine, by brand name and corresponding registration number of approval, that is being shipped, delivered, or introduced into this state.
- (3) A manufacturer, rectifier, or outstate seller of wine who is responsible for labeling shall furnish proof, upon request, that valid certificates of approval for the label have been obtained from, and are unrevoked under, the federal labeling requirements as published in 27 C.F.R. part 4, subpart D, §§4.1 to 4.80, of 1935, as amended.
- (4) A shipment of bottled wine from a manufacturer or an outstate seller of wine shall be made only to a licensed wholesaler at the address of the licensed premises, except upon written order of the commission.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1954 ACS 85, Eff. Nov. 6, 1975; 1954 ACS 89, Eff. Oct. 2, 1976; 1979 AC;- 2000 MR 3, Eff. March 20, 2000 ; 2011 MR 20, Eff. Oct. 19, 2011.

R 436.1720 Invoice for bottled wine.

Rule 20.

- (1) Each sale or delivery of wine made by an outstate seller of wine to a licensed wholesaler of wine shall be accurately recorded on a sales invoice, a debit memo, or a credit memo. An outstate seller of wine

shall furnish each licensed wholesaler of wine with 2 copies of each invoice at the time of each sale or delivery of wine.

- (2) Each sales invoice shall have printed thereon the name, address, and location of the outstate seller of wine issuing the invoice and shall also contain all of the following information:
 - (a) The name and address of the licensed wholesaler of wine to whom the sale was made.
 - (b) The date of sale and an identifying invoice number.
 - (c) The quantity, brand, container type, container size, unit price, and total cost of the wine sold.
 - (d) An identifying designation for all wine over 16% alcohol by volume.
 - (e) The address to which the wine was delivered, if different than the address of the licensed wholesaler to whom the wine was sold.
- (3) When a billing error is discovered, an outstate seller of wine shall immediately furnish the licensed wholesaler of wine who was incorrectly billed with 2 copies of either a debit memo or a credit memo to correct the billing error.
- (4) Each debit memo and each credit memo shall have printed thereon the name and address of the outstate seller of wine issuing the debit memo or credit memo and shall also contain all of the following information:
 - (a) The name and address of the licensed wholesaler of wine.
 - (b) The date on which the original sale occurred and the identifying number of the invoice being corrected.
 - (c) The corrected quantity, brand, container type, container size, unit price, the net amount debited or credited, and the number of the invoice to which the debit or credit will be applied, if known.
 - (d) The reason for the debit or credit.
- (5) Each licensed wholesaler of wine shall retain on the licensed premises 1 copy of each invoice, debit memo, and credit memo received from an outstate seller of wine and shall forward to the Lansing office of the commission, postmarked not later than the fifteenth day of each month, 1 copy of each invoice, debit memo, or credit memo received during the previous calendar month. Each licensed wholesaler of wine shall include, with the invoices, a summary report of the invoices being submitted. The summary report shall include all of the following information:
 - (a) The name and address of the licensed wholesaler of wine.
 - (b) The calendar month to which the invoices apply.
 - (c) The total number of invoices being submitted.

History: 1954 ACS 89, Eff. Oct. 2, 1976; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1721 Requirements for sale of bulk wine.

Rule 21.

- (1) A manufacturer or outstate seller of wine may sell bulk wine of any alcoholic content for blending purposes and nonbeverage purposes without an additional license.
- (2) Bulk wine shall not be offered for sale, kept for sale, sold, delivered or otherwise introduced into this state unless it is approved for sale by the commission and accompanied by a release form, a supply of which shall be furnished by the commission upon request. The release shall be signed by an outstate seller of wine or an authorized agent of the outstate seller of wine.
- (3) When bulk wine is received by a consignee on a release issued by the commission, the consignee shall immediately submit to the commission a copy of the invoice listing the shipment. Upon request the consignee shall readily make available to a commission inspector a copy of the release, the bill of lading, and a copy of the vendor's invoice.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1954 ACS 89, Eff. Oct. 2, 1976; 1979 AC.

R 436.1722 Transportation of wine.

Rule 22.

- (1) When bottled wine is transported in interstate or intrastate commerce, a copy of the invoice or bill of lading shall accompany the wine and shall be available for inspection by commission representatives and law enforcement agencies.

R 436.1319 Cooperative advertising

Rule 19.

- (1) There shall not be cooperative advertising:
 - (a) Between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a retail licensee.
 - (b) Between a wholesaler and a retail licensee.
 - (c) Between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a wholesale licensee.
- (2) A manufacturer, an outstate seller of beer, or an outstate seller of wine may:
 - (a) Pay the cost of painting the trucks of a wholesale licensee.
 - (b) Supply brand logo decals and advertising mats to a wholesale licensee without cost.
 - (c) Use the name of his wholesaler in his advertising.
- (3) The name of a retail licensee shall not appear in the advertising of a manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler.

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

R 436.1321 Contests and advertising articles.

Rule 21.

- (1) There shall not be advertising of alcoholic liquor connected with offering a prize or award on the completion of a contest, except upon prior written approval of the commission.
- (2) Advertising material which does not contain the name of a retail licensee and does not have a secondary value, but explains the production, sale, or consumption of alcoholic liquor may be published and distributed in this state.
- (3) Alcoholic liquor recipe literature which does not contain the name of a retail licensee may be published and distributed in this state.
- (4) All gambling devices, including punch boards and games of any description used for advertising purposes, are prohibited.
- (5) A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler may sell novelty items bearing brand logo type, upon written order of the commission. These novelty items shall not be sold below their cost by the manufacturer, outstate seller of beer, outstate seller of wine, or wholesaler.

History: 1954 ACS 84, Eff. Oct. 3, 1975; 1954 ACS 97, Eff. Oct. 12, 1978; 1979 AC; 2014 MR 23, Eff. Dec. 5, 2014.

R 436.1323 Team sponsorship

Rule 23.

- (1) A licensee may own or sponsor and furnish equipment for an athletic team under his own license name. The name of the sponsor may appear on the team uniform.
- (2) A licensee shall not aid or assist another licensee by sponsoring or equipping athletic teams and a licensee shall not accept such aid or assistance.

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

R 436.1325 Calendars and matchbooks.

Rule 25.

- (1) A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler shall not give anything of value to a customer.
- (2) A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler may give a

calendar and matchbooks to a customer if nothing of value is attached to, or given with, the calendar or matchbooks.

- (3) A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler shall not sell, give, or furnish a retail licensee with calendars or matchbooks to be given to the customers of the retail licensee, except upon written order of the commission.
- (4) A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler may advertise on calendars.

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

R 436.1327 Rescinded.

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

R 436.1329 Displays.

Rule 29.

- (1) A manufacturer, a vendor of spirits, an outstate seller of beer, an outstate seller of wine, or a wholesaler may not sell or in any manner furnish or install, and a retail licensee may not accept, a permanent display in the licensed premises of a retail licensee.
- (2) A manufacturer, a vendor of spirits, an outstate seller of beer, or an outstate seller of wine may furnish and install a temporary bin display that has a capacity of up to 15 cases of 24 12-ounce or 0.375-liter containers or the equivalent in other sizes of beer, wine, or spirits on the premises of a retail licensee who is licensed for off-premises sales only.
- (3) A wholesaler may install, on the premises of a retail licensee who is licensed for off-premises sales only, a temporary bin display that has been provided without charge by a manufacturer, an outstate seller of beer, or an outstate seller of wine.
- (4) A retail licensee shall ensure that every temporary bin display installed on its premises clearly indicates by a tag, a stamp, a label, or other method that is securely affixed to the temporary bin display, the date upon which the temporary bin display was installed.
- (5) The advertising on a temporary bin display shall be excluded from the 3,500-square inch limit on inside retail advertising signs.

History: 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; 1986 MR 12, Eff. Jan. 15, 1987; Amended Eff. May 12, 1994.

R 436.1331 Dispenser signs.

Rule 31.

- (1) Alcoholic liquor dispensing equipment shall have the brand of alcoholic liquor designated by a sign on the dispenser or on the tap.
- (2) A licensee shall not draw from a dispenser or tap a brand of alcoholic liquor other than that brand designated by the dispenser sign or tap marker.

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

R 436.1333 Rescinded.

History: 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; 1984 MR 3, Eff. Mar. 27, 1984; 1989 MR 1, Eff. Jan. 20, 1989; Rescinded 2000 MR 3, Eff. March 20, 2000.

R 436.1335 Rescinded.

History: 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; 1989-2000 AACS MR 3, Eff. March 20, 2000; Rescinded 2013 MR 5, Eff. March 7, 2013.