

- (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) 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. July 18, 2012.

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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.
- (2) 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.
- (3) 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.

- (4) 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.
  - (r) 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.
- (2) 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.



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**R 436.1319 Cooperative advertising**

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## 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.

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**R 436.1321 Contests and advertising articles.**

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## 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) Spirits shall not be advertised on the premises of a retail licensee, except as provided in these rules or upon prior written approval of the commission.
- (3) There shall not be advertising of alcoholic liquor on anything which has any value, use, or purpose other than the actual advertising value, except upon written order of the commission.
- (4) 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.
- (5) Alcoholic liquor recipe literature which does not contain the name of a retail licensee may be published and distributed in this state.
- (6) All gambling devices, including punch boards and games of any description used for advertising purposes, are prohibited.
- (7) 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.
- (8) A licensee licensed to sell alcoholic liquor for consumption on the premises shall not sell, give, or furnish to anyone, novelty items bearing brand logo type on the licensed premises, nor shall the licensee use novelty items on the licensed premises except upon written order of the commission.

History: 1954 ACS 84, Eff. Oct. 3, 1975; 1954 ACS 97, Eff. Oct. 12, 1978; 1979 AC.

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**R 436.1323 Team sponsorship**

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## 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.

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**R 436.1325 Calendars and matchbooks.**

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## 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.

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**R 436.1327 Rescinded.**

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

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**R 436.1329 Displays.**

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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.

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**R 436.1331 Dispenser signs.**

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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.

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**R 436.1333 Rescinded.**

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**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.

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**R 436.1335 Rescinded.**

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**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.

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**R 436.1337 Rescinded.**

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**History:** 1954 ACS 84, Eff. Oct. 3, 1975; 1979 AC; rescinded 1985 MR 4, Eff. May 10, 1985.

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**R 436.1339 Rescissions.**

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Rule 39.

Rules 15 to 23 and 25 to 28 of the rules entitled "Rules and Regulations Governing the Relationship Between Licensed Manufacturers, Wholesalers of Alcoholic Liquors, Their Sales Representatives and Retail Licensees," being R 436.535 to R 436.543 and R 436.545 to R 436.548 of the Michigan Administrative Code and appearing on pages 5384 to 5386 of the 1954 volume of the Code, are rescinded.

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

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- (mm) A felony violation of section 909(4) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1909, concerning the illegal sale, delivery, or importation of spirits.

History: Add. 1995, Act 187, Eff. Apr. 1, 1996 ;-- Am. 1997, Act 75, Imd. Eff. July 17, 1997 ;-- Am. 2002, Act 124, Eff. Apr. 22, 2002 ;-- Am. 2009, Act 82, Imd. Eff. Aug. 31, 2009 ;-- Am. 2010, Act 176, Imd. Eff. Sept. 30, 2010

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## **CHAPTER XLIV GAMBLING**

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### **750.303a      Applicability of chapter; recreational card playing conducted at senior citizen housing facility.**

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Sec. 303a.

This chapter does not apply to recreational card playing conducted at a senior citizen housing facility not licensed by the liquor control commission by a senior citizens club or a group of residents of a senior citizen housing facility that consists of at least 15 members who are 60 years of age or older under all of the following circumstances:

- (a) The card playing is conducted solely for the amusement and recreation of the members and guests of the club or group and is not conducted for fund-raising. The number of guests participating in the card playing shall not exceed the number of club or group members participating in the card playing.
- (b) Only bona fide members and employees of the club or group participate in the conduct of the activity.
- (c) The card playing is conducted after 9 a.m. and before midnight.
- (d) The participating cardplayers bet not more than 25 cents per bet.
- (e) The winnings from 1 hand of cards do not exceed \$5.00.
- (f) Except for winnings, revenue generated from the activity is used for reasonable expenses incurred in conducting the card playing, and no person is compensated for participating in the conduct of the card playing.

History: Added 1996, Act 539, Eff. Jan. 14, 1997.

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### **750.310a      Applicability of chapter; bowling game or bowling card game.**

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Sec. 310a.

- (1) Subject to subsection (3), this chapter does not apply to a bowling game or a bowling card game conducted in a bowling center to which all of the following apply:
  - (a) The total amount of the participation fee per person per game does not exceed \$5.00.
  - (b) The total prize payout per league per game does not exceed \$1,000.00 and is comprised only of participation fees.
- (2) This section applies only to a game that is sponsored solely by 1 league and whose participants are members of the same league.
- (3) The bowling center in which the bowling game or bowling card game is conducted shall not receive a percentage of the participation fees or prize money from bowling games or bowling card games for which a stake or prize is awarded.
- (4) As used in this section:
  - (a) "Bowling center" means a bowling alley with a minimum of 5 lanes.
  - (b) "Bowling card game" means a card game held in conjunction with a bowling game, the results of which depend on the outcome of the bowling game. Bowling card game does not include any of the following:
    - (i) A mechanical or electronic simulation of a bowling card game.
    - (ii) Roulette, beano, cards unless used in a bowling card game, dice, wheels of fortune, video poker, slot machines, or other similar games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.
    - (iii) A game that includes a mechanical or physical device that directly or indirectly impairs or thwarts the skill of the player.

- (c) "Bowling game" means not more than 3 sets of 10 frames of bowling. Bowling game does not include any of the following:
  - (i) A mechanical or electronic simulation of a bowling game.
  - (ii) Roulette, beano, cards unless used in a bowling card game, dice, wheels of fortune, video poker, slot machines, or other similar games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.
  - (iii) A game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player.
- (d) "Participation fee" means a fee that is charged by the league to a participant in a game for which a stake or prize is awarded.

History: Added 1996, Act 539, Eff. Jan. 14, 1997; Am. 1998, Act 338, Eff. Sept. 30, 1998.

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**750.310b      Applicability of chapter; redemption game.**

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Sec. 310b.

- (1) This chapter does not apply to a redemption game if all of the following conditions are met:
  - (a) The outcome of the game is determined through the application of an element of skill by the player.
  - (b) The award of the prize is based upon the player's achieving the object of the game or otherwise upon the player's score.
  - (c) Only noncash prizes, toys, novelties, or coupons or other representations of value redeemable for noncash prizes, toys, or novelties are awarded. A gift card may be awarded under this subdivision if all of the following apply:
    - i. The gift card is usable only at a retailer or an affiliated group of retailers.
    - ii. The gift card is issued in a specified amount.
    - iii. The gift card is redeemable only for goods and services available from the retailer or retailers and not for cash.
    - iv. Information on the gift card may not be altered with the use of a personal identification number.
  - (d) The wholesale value of a prize, toy, or novelty awarded for the successful single play of a game is not more than \$3.75.
  - (e) The redemption value of coupons or other representations of value awarded for the successful single play of a game does not exceed 15 times the amount charged for a single play of the game or a \$3.75-per-play average, whichever is less. However, players may accumulate coupons or other representations of value for redemption for noncash prizes, toys, or novelties of a greater value up to, but not exceeding, \$500.00 wholesale value.
- (2) As used in this section, "redemption game" means a single player or multiplayer mechanical, electronic, or manual amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, propelling, or stopping a ball or other object into, upon, or against a hole or other target. Redemption game does not include either of the following:
  - (a) A game such as roulette, beano, cards, dice, wheel of fortune, video poker, a slot machine, or another game in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.
  - (b) A game that includes a mechanical or physical device that directly or indirectly impairs or thwarts the skill of the player.

History: Add. 1996, Act 539, Imd. Eff. Jan. 14, 1997 ;-- Am. 2010, Act 219, Imd. Eff. Dec. 9, 2010

is subject to an administrative fine of not more than \$2,500.00 per occurrence and the following license sanctions after notice and opportunity for an administrative hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328:

- (a) For a first violation, a license revocation or suspension for between 1 and 30 days.
  - (b) For a second violation, a license revocation or suspension for between 31 and 90 days.
  - (c) For a third or subsequent violation, revocation of the license.
- (2) The commission shall provide a procedure by which a licensee who is aggrieved by any penalty imposed under subsection (1) and any suspension or revocation of a license ordered by the commission, a commissioner, or a duly authorized agent of the commission may request a hearing for the purpose of presenting any facts or reasons to the commission as to why the penalty, suspension, or revocation should be modified or rescinded. Any such request shall be in writing and accompanied by a fee of \$25.00. The commission, after reviewing the record made before a commissioner or a duly authorized agent of the commission, may allow or refuse to allow the hearing in accordance with the commission's rules. The right to a hearing provided in this subsection, however, shall not be interpreted by any court as curtailing, removing, or annulling the right of the commission to suspend or revoke licenses as provided for in this act. A licensee does not have a right of appeal from the final determination of the commission, except by leave of the circuit court. Notice of the order of suspension or revocation of a license or of the assessment of a penalty, or both, shall be given in the manner prescribed by the commission. The suspension or revocation of a license or the assessment of a penalty, or both, by the commission or a duly authorized agent of the commission does not prohibit the institution of a criminal prosecution for a violation of this act. The institution of a criminal prosecution for a violation of this act or the acquittal or conviction of a person for a violation of this act does not prevent the suspension or revocation of a license or the assessment of a penalty, or both, by the commission. In a hearing for the suspension or revocation of a license issued under this act, proof that the defendant licensee or an agent or employee of the licensee demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator or chauffeur license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of majority and identity of the person, may be offered as evidence in a defense to a proceeding for the suspension or revocation of a license issued under this act. A licensee who has reason to believe that a minor has used fraudulent identification to purchase alcoholic liquor in violation of section 703 shall file a police report concerning the violation with a local law enforcement agency and shall also present the alleged fraudulent identification to the local law enforcement agency at the time of filing the report if the identification is in the possession of the licensee. The commission may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the utilization by licensees of equipment designed to detect altered or forged driver licenses, state identification cards, and other forms of identification.
- (3) In addition to the hearing commissioners provided for in section 209, the chairperson of the commission may designate not more than 2 duly authorized agents to hear violation cases. A person appointed under this subsection shall be a member in good standing of the state bar of Michigan.
- (4) A duly authorized agent who has been designated by the chairperson pursuant to subsection (3) shall have, in the hearing of violation cases, the same authority and responsibility as does a hearing commissioner under this act and the rules promulgated under this act.
- (5) A duly authorized agent who has been designated by the chairperson pursuant to subsection (3) shall be ineligible for appointment to the commission for a period of 1 year after the person ceases to serve as a duly authorized agent.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998 ;-- Am. 2000, Act 431, Imd. Eff. Jan. 9, 2001 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010

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**436.1903a Conviction or administrative disqualification of licensee; electronic transaction; sanctions; hearing and appeal procedures; definitions.**

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Sec. 903a.

- (1) A licensee is subject to the licensing sanctions in subsection (2) if the licensee is convicted or administratively disqualified as the result of an electronic transaction to which all of the following apply:
  - (a) The transaction is a transaction for food assistance program benefits.
  - (b) The transaction involves an item other than eligible food.

- (c) The transaction is related to the sale of alcoholic liquor under that licensee's liquor license.
- (2) The commission or a commissioner or duly authorized agent of the commission designated by the chairperson of the commission shall, upon due notice and proper hearing, impose the following license sanctions upon a licensee described in subsection (1):
  - (a) For a first violation, a license suspension for between 30 and 60 days.
  - (b) For a second violation, a license suspension for between 61 and 120 days.
  - (c) For a third or subsequent violation, revocation of the license.
- (3) A licensee aggrieved by a sanction imposed under subsection (2) may invoke the hearing and appeal procedures of section 903(2) and rules promulgated under that section.
- (4) As used in this section:
  - (a) "Administratively disqualified" means administratively disqualified from acting as a merchant under the food and nutrition act of 2008, 7 USC 2011 to 2036a, or 7 CFR 278.6 because the licensee has engaged in trafficking as that term is defined in 7 CFR 271.2. A licensee is not administratively disqualified until any administrative or judicial review under 7 CFR 279 is complete.
  - (b) "Convicted" means that the licensee either was convicted of or pled guilty to a crime under section 300a(1)(c) of the Michigan penal code, 1931 PA 328, MCL 750.300a.
  - (c) "Eligible food" means that term as defined in 7 CFR 271.2.

History: Add. 2013, Act 55, Eff. Sept. 10, 2013

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**436.1904      Consumption or possession of alcoholic liquor on school property; prohibition; violation as misdemeanor; exceptions; other violations; application of section to minor; definitions.**

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Sec. 904.

- (1) A person shall not consume alcoholic liquor on school property or possess alcoholic liquor on school property with the intent to consume it on school property.
- (2) A person who violates this section is guilty of a misdemeanor punishable as follows:
  - (a) If the person has no prior convictions, by imprisonment for not more than 93 days or a fine of not more than \$250.00, or both.
  - (b) If the person has 1 prior conviction, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
  - (c) If the person has 2 or more prior convictions, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.
- (3) This section does not prohibit a person from consuming alcoholic liquor on school property or possessing alcoholic liquor on school property with the intent to consume it on school property under any of the following circumstances:
  - (a) As part of a generally recognized religious service or religious ceremony.
  - (b) At a nonschool function or event on school property if the superintendent of the school district or, if the school is not operated by a school district, the administrator of the school, or his or her designee, has approved consuming alcoholic liquor on school property or possessing alcoholic liquor on school property with the intent to consume it on school property during that function or event.
- (4) This section does not prohibit an individual from being convicted of or found responsible for any other violation of law arising out of the same transaction as the violation of this section.
- (5) This section does not apply to a minor who could be subject to prosecution under section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.
- (6) As used in this section:
  - (a) "Prior conviction" means a conviction for violating this section or a local ordinance substantially corresponding to this section.
  - (b) "School" means a public school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.
  - (c) "School property" means a building, playing field, vehicle, or other property used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

History: Add. 1999, Act 274, Eff. Apr. 3, 2000  
 Popular Name: Act 306

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**436.1905     Selling or furnishing alcoholic liquor to minor; enforcement actions prohibited; conditions; exception.**

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Sec. 905.

- (1) Notwithstanding section 903, if a retail licensee or a retail licensee's clerk, agent, or employee violates this act by selling or furnishing alcoholic liquor to a minor, or by allowing a minor to consume alcoholic liquor or possess alcoholic liquor for personal consumption on the licensed premises, and if the enforcing agency involved in the prosecution of the violation is the state police or a local police agency, the commission shall not take any action under section 903 to suspend or revoke the licensee's license or assess an administrative fine against the licensee unless all of the following occur, if applicable:
  - (a) Enforcement action is taken against the minor who purchased, consumed, or received the alcoholic liquor from the retail licensee or the retail licensee's clerk, agent, or employee.



the tax levied in this subsection. The rules shall be promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

- (2) The tax levied in subsection (1) shall not be collected with respect to beer that is consumed on the premises of the manufacturer or is damaged in the process of brewing, packaging, and storage and is not offered for sale, except that beer sold by a brewpub for consumption on the premises or beer produced and consumed on the premises of a micro brewer is subject to the tax levied under subsection (1).
- (3) The tax levied under subsection (1) shall be rebated to the person who paid the tax if that person provides satisfactory proof to the commission that the beer was shipped outside of this state for sale and consumption outside this state.
- (4) For the purposes of the tax levied under subsection (1), a barrel of beer contains 31 gallons.
- (5) The commission may promulgate a rule that designates the states or the laws or the rules of other states that require a licensed wholesaler of beer to pay an additional fee for the right to purchase, import, or sell beer manufactured in this state; that denies the issuance of a license authorizing the importation of beer to any licensed wholesaler of beer in that state who may make application for the license; that prohibits licensed wholesalers of beer in that state from possessing or selling beer purchased in this state, unless the person from whom purchased has secured a license and paid a fee in that state, if the seller does not transport the beer into the state and does not sell the beer in the state; or that imposes any higher taxes or inspection fees upon beer manufactured in this state when transporting the beer into or selling the beer in that state than taxes or fees imposed upon beer manufactured and sold within that state. A rule promulgated under this subsection shall prohibit all licensees from purchasing, receiving, possessing, or selling any beer manufactured in any state designated in the rule. A rule promulgated under this subsection becomes effective as provided in section 47 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.247. Any licensee or person adversely affected by a rule promulgated under this subsection is entitled to review by leave to a court of competent jurisdiction regarding the question as to whether the commission acted illegally or in excess of its authority in making its finding under this subsection with respect to any state.
- (6) An eligible brewer may claim a credit against the tax levied under subsection (1) in the amount of \$2.00 per barrel for the first 30,000 barrels. As used in this subsection, "eligible brewer" means a brewer, whether or not located in this state, or brewpub that manufactures not more than 50,000 barrels of beer during the tax year for which the credit is claimed. In determining the number of barrels for purposes of the credit, all brands and labels of a brewer shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2000, Act 395, Imd. Eff. Jan. 8, 2001

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**436.1411 Brewer not licensed as microbrewer producing under 200,000 barrels per year; sale of beer for on-premises consumption on licensed brewery premises.**

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Sec. 411.

A brewer that is not licensed as a micro brewer may sell its beer for on-premises consumption at not more than 1 location in this state that is on any of its licensed brewery premises.

History: Add. 2000, Act 395, Imd. Eff. Jan. 8, 2001; Am. 2011, Act. 298, Imd. Eff. Dec. 22, 2011

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**436.1413 Participation in beer festival; direct sale by licensed brewpub to holder of special license.**

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Sec. 413.

Notwithstanding any provision of this act or rule promulgated under this act, a licensed brewpub may directly sell to a holder of a special license issued under section 526, for the purpose of conducting a beer festival, a quantity of beer determined appropriate by the commission for the purpose of participating in a beer festival.

History: Add. 2008, Act 259, Imd. Eff. Aug. 4, 2008

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**436.1415 Issuance of farmer's market permit to qualified small wine maker.**

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## Sec. 415.

- (1) Subject to the limitations provided under this section, the commission may issue a farmer's market permit to a qualified small wine maker. Regardless of the location of the qualified small wine maker, the commission shall only issue 1 farmer's market permit in a county where the farmer's market is located for each 1,500 of population or fraction of 1,500 in that county] as determined by the last federal decennial census, by a special census pursuant to section 6 of the home rule city act, 1909 PA 279, MCL 117.6, or section 7 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.907, or by the latest census and corrections published by the United States department of commerce, bureau of the census, whichever is later. The holder of a farmer's market permit may conduct tastings and sell, at retail at a farmer's market, the wine produced by that qualified small wine maker.
- (2) The commission shall charge a fee for a farmer's market permit of \$25.00 for each farmer's market location. A farmer's market permit issued under this section is nontransferable. Notwithstanding the quota provision under subsection (1), the commission shall not limit the number of permits a qualified small wine maker obtains under this section, but an application for a farmer's market permit shall only contain up to 5 separate locations at 1 time. Section 503 does not apply to the application or issuance of a permit under this section or to the location of a farmer's market where the holder of a farmer's market permit intends to participate under this section.
- (3) The commission shall not issue a farmer's market permit under this section unless the applicant provides documentation, in a manner prescribed by the commission, that the local police agency where the farmer's market is located and the farmer's market manager at that location have approved the proposed activity.
- (4) The tastings and sales performed under a farmer's market permit shall be limited to an exclusive area [that is well defined and clearly marked], in a manner prescribed by the commission, that is under the control of the holder of the farmer's market permit, as verified by the farmer's market manager.
- (5) The tastings and sales performed under a farmer's market permit shall be conducted by employees of the holder of the farmer's market permit who have completed a server training program as provided for in section 906 and the rules promulgated by the commission.
- (6) The wine sold or used for tastings shall be furnished from the stock of the holder of the farmer's market permit and removed from the farmer's market premises immediately after the farmer's market has concluded.
- (7) Tasting samples provided to a customer shall not exceed 3 servings of not more than 2 ounces of wine in a 24-hour period of time.
- (8) The commission shall develop an application for an annual farmer's market permit allowing for licensed activities under this section. A farmer's market manager shall verify on the application that the location listed on the application qualifies as a farmer's market under this section.
- (9) A wholesaler shall not conduct or participate in any event allowed by this section.
- (10) A holder of a farmer's market permit is considered a manufacturer as provided under section 603(15)(a).
- (11) Two years after the enactment date of the amendatory act that added this section, the commission shall submit a report to the standing committees of the senate and house of representatives concerned with issues involving liquor control and the house and senate fiscal agencies assessing the continued issuance of farmer's market permits to qualified small wine makers. The report shall include, at a minimum, all of the following:
  - (a) The number of applications received each year for a farmer's market permit.
  - (b) The number of farmer's market permit applications approved each year.
  - (c) The number of farmer's market permit applications approved in each county.
- (12) As used in this section:
  - (a) "Farmer's market" means a group of farmers or their designees or a variety of vendors, as determined by the farmer's market manager or his or her designee, who assembles on a recurring basis at a defined community sponsored or municipally sponsored location for the

purposes of selling, directly to a consumer, food and products produced by those farmers or their representatives.

- (b) "Farmer's market manager" means the person responsible for enforcing the market policy and for the daily operation and management of the farmer's market.
- (c) "Farmer's market permit" means an annual permit issued as part of an approved license to a qualified small wine maker allowing that person to conduct tastings and sell at retail, for consumption off the licensed premises, at a farmer's market, wine produced by the qualified small wine maker.
- (d) "Qualified small wine maker" means a small wine maker, or an out-of-state entity that is the substantial equivalent of a small wine maker, that manufactures or bottles not more than 5,000 gallons of wine in 1 calendar year.

History: Add. 2013, Act 100, Eff. August 31, 2013

## CHAPTER 5

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**436.1501 Licenses; issuance; fees; bonds or liability insurance; expiration of full-year license; license as contract; operation of establishment upon death of licensee; approval of receiver or trustee; part-year license; transfer of license; approval of application; request for revocation of license or permit by local legislative body; hotels; zones and anniversary dates for renewal of licenses; rules; nontransferable tavern licenses for concessionaires at state fairgrounds; notice contained in application.**

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Sec. 501.

- (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 525 and the filing of the bonds required in section 801 or liability insurance as provided in section 803. The commission shall provide a notification of the ability of the purchaser or transferee to obtain a tax clearance certificate, as provided in subsection (6). Subject to section 906(2) and (3), the commission shall not issue a new on premises license or transfer more than 50% interest in an existing on premises license unless the applicant or transferee offers proof acceptable to the commission that he or she has employed or has present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program described in section 906. The commission may consider an individual enrolled and actively participating in a server training program as having successfully completed the program for the time the individual is participating. The commission may allow an applicant or a conditionally approved licensee at least 180 days, or more upon a showing of good cause, to meet the minimum personnel training requirements of this subsection. The commission may suspend the license of a conditionally approved licensee if that licensee does not comply with this subsection. The commission may waive the server training requirements of this subsection on the basis of either of the following circumstances:
  - (a) The licensee's responsible operating experience or training.
  - (b) The person's demonstration of an acceptable level of responsible operation either as a licensee during the preceding 3 years or as a manager with substantial experience in serving alcoholic liquor.
- (2) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act is a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 600,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body is not required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local legislative body after due notice and proper hearing by the local

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