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- (5) The commission shall not issue a banquet facility permit unless issuance is approved through adoption of a resolution of the legislative body of the local unit of government within which the permitted facility is located.

History: Add. 1998, Act 282, Imd. Eff. July 27, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998

Admin Rule: R 436.1501 et seq. of the Michigan Administrative Code.

436.1523 Liquor licenses; ineligibility of law enforcement officers; exception; “law enforcement personnel” defined.

Sec. 523.

- (1) A person who holds or whose spouse holds, either by appointment or election, a public office which involves the duty to enforce any of the penal laws of the United States, or the penal laws of this state, or a penal ordinance or resolution of any municipal subdivision of the state, except civil defense volunteer police, mayors or council members of cities, or village presidents, or mayors of home rule cities whose law enforcement authority under the city charter is restricted to emergency situations, or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408; the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong, shall not be issued a license, or have an interest, directly or indirectly, in a license if the activity regulated by the license occurs in the same local unit of government within which the person enforces those state or local penal laws unless the official is contractually prohibited from enforcing this act. This subsection does not apply to a spouse of an appointed or elected official holding an office which involves the duty to enforce a penal law described in this subsection if the spouse held a license or an interest in a license for not less than 3 years before marrying the appointed or elected official or if the spouse has voting rights in a public or private club holding the license, which voting rights are derived from ownership of shares to the club, and the spouse participates as a member in good standing of the public or private club or of an advisory board but does not participate in the day-to-day operation of the club. In the case of any licensee excepted from the general prohibition contained in this section, the commission may periodically review all circumstances of the licensee and his or her spouse regarding the exception. The commission has the authority to review and monitor any complaints it receives regarding inappropriate enforcement of this act by or against a person excepted from this section. However, a nonprofit fraternal organization incorporated under the laws of this state, whose membership is not totally composed of law enforcement personnel or public officeholders charged with the duty of enforcing any penal laws or ordinances of a governmental body, may be issued a club liquor license if the organization is otherwise qualified.
- (2) As used in this section, “law enforcement personnel” does not include the mayor of a city or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648, and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong.

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

436.1525 License fees; filing completed application; issuance of license within certain period of time; conditional license; report; "completed application" defined.

Sec. 525.

- (1) Except as otherwise provided in this section, the following license fees shall be paid at the time of filing applications or as otherwise provided in this act and are subject to allocation under section 543:
 - (a) Manufacturers of spirits, not including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$1,000.00.
 - (b) Manufacturers of beer, \$50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of \$1,000.00, and in addition \$50.00 for each motor vehicle used in delivery to retail licensees. A fee increase does not apply to a manufacturer of less than 15,000 barrels production per year.
 - (c) Outstate seller of beer, delivering or selling beer in this state, \$1,000.00.
 - (d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$100.00. The small wine maker license fee is \$25.00.
 - (e) Outstate seller of wine, delivering or selling wine in this state, \$300.00.
 - (f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, \$300.00.
 - (g) Dining cars or other railroad or Pullman cars selling alcoholic liquor, \$100.00 per train.
 - (h) Wholesale vendors other than manufacturers of beer, \$300.00 for the first motor vehicle used in delivery to retail licensees and \$50.00 for each additional motor vehicle used in delivery to retail licensees.
 - (i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of \$500.00 per year computed on the basis of \$1.00 per person per passenger capacity.
 - (j) Specially designated merchants, for selling beer or wine for consumption off the premises only but not at wholesale, \$100.00 for each location regardless of whether the location is part of a system or chain of merchandising.
 - (k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, \$150.00 per year, and an additional fee of \$3.00 for each \$1,000.00 or major fraction of that amount in excess of \$25,000.00 of the total retail value of merchandise purchased under each license from the commission during the previous calendar year.
 - (l) Hotels of class A selling beer and wine, a minimum fee of \$250.00 and \$1.00 for each bedroom in excess of 20, but not more than \$500.00 total.
 - (m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of \$600.00 and \$3.00 for each bedroom in excess of 20. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, a fee of \$350.00 shall be paid for each additional public bar, other than a bedroom.
 - (n) Taverns, selling beer and wine, \$250.00.
 - (o) Class C license selling beer, wine, mixed spirit drink, and spirits, \$600.00. Subject to section 518(2), if a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of \$350.00 shall be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of \$100.00 shall be paid for each additional bar.
 - (p) Clubs selling beer, wine, mixed spirit drink, and spirits, \$300.00 for clubs having 150 or fewer accredited members and \$1.00 for each member in excess of 150. Clubs shall submit a list of members by a sworn affidavit 30 days before the closing of the license year. The sworn affidavit shall be used only for determining the license fees to be paid under this subdivision. This subdivision does not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members is not required of a club paying the maximum fee. The maximum fee shall not exceed \$750.00 for any 1 club.
 - (q) Warehousemen, to be fixed by the commission with a minimum fee for each warehouse of \$50.00.

- (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.
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 - (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 (5) and issued under subsection (6), \$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) 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.
- (4) 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.
- (5) 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 to any of the following:
- (a) An applicant seeking to transfer ownership of or interest in an existing license at the same location under subsection (3) to sell alcoholic liquor for consumption on or off the premises.

- (b) An applicant seeking an initial license under subsection (3), except for a specially designated distributor license or a license for the sale of alcoholic liquor for consumption on the premises.
- (6) The commission shall issue a conditional license to applicants approved under subsection (5) 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.
- (7) A conditional license approved under subsection (5) and issued under subsection (6) is nontransferable and nonrenewable. A conditional license approved under subsection (5) and issued under subsection (6) 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.
- (8) Upon issuing a conditional license under subsection (6), the commission shall, until the conditional license expires under subsection (7), place an existing license under subsection (3) 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.
- (9) 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 (3).
 - (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 (4).
- (10) 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, Eff. (pending)

Constitutionality: In *Granholm 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

436.2005 Adulterated, misbranded, or refilled liquors.

Sec. 1005.

- (1) A licensee who, by himself or herself or by his or her agent or employee, sells, offers for sale, exposes for sale, or possesses alcoholic liquor that is adulterated, misbranded, or in bottles that have been refilled is guilty of a violation of this act.
- (2) For purposes of this section, alcoholic liquor is adulterated if it contains any liquid or other ingredient that was not placed there by the original manufacturer or bottler.
- (3) For purposes of this section, alcoholic liquor is misbranded if it is not plainly labeled, marked, or otherwise designated.
- (4) For purposes of this section, alcoholic liquor bottles have been refilled when the bottles contain any liquid or other ingredient not placed in the bottles by the original manufacturer or bottler.
- (5) This section does not apply to beer containers.

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

436.2007 Alcoholic liquor as contraband.

Sec. 1007.

All alcoholic liquor that is manufactured, transported, sold, or possessed without the consent of the commission is hereby declared contraband and shall be disposed of by order of the commission.

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

436.2009 Delivery of seized alcoholic liquor; bankruptcy; payment.

Sec. 1009.

- (1) If alcoholic liquor is seized under a judgment rendered against a licensee or if a licensee becomes insolvent, the officer seizing that alcoholic liquor or the trustee in bankruptcy of the insolvent licensee shall deliver to the commission all alcoholic liquor found in the licensee's possession.
- (2) Within 1 month after the date of delivery of alcoholic liquor to the commission by an officer or trustee in bankruptcy under this section, the commission shall pay over to the officer or trustee in bankruptcy the purchase price, less 10%, paid by the licensee to the commission for all legal alcoholic liquor seized and the value, less 10%, as established by the commission, of other legally acquired alcoholic liquor delivered to the commission under this section. Alcoholic liquor delivered to the commission under this section that was illegally acquired by the licensee shall be disposed of by order of the commission and payment shall not be made for that alcoholic liquor.

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

436.2011 Printed price list; posting.

Sec. 1011.

Alcoholic liquor for consumption on the premises shall be sold only in accordance with a printed price list that is readily available to customers.

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

436.2013 Sale or purchase of alcoholic liquor for cash; exceptions.

Sec. 1013.

A sale or purchase of alcoholic liquor made in a state liquor store and by all types of licensees shall be for cash only, except for the following:

- (a) A customer's charge account with a specially designated merchant who is not a holder of a license authorizing sale of alcoholic liquor for consumption on the premises.

- (b) A sale to a bona fide registered guest of a class B hotel or class A hotel, if the extension of credit does not exceed 30 days.
- (c) A sale to an industrial account if the extension of credit does not exceed 30 days.
- (d) A sale to a person holding an authorized credit card from a credit card agency.
- (e) A sale to a professional account, or an industrial account of class C licensee or a tavern, whose major business is food, if the extension of credit does not exceed 30 days.
- (f) A sale by a private club to a bona fide member.

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

436.2015 Awarding unopened alcoholic liquor pursuant to lawful fund raising activity.

Sec. 1015.

- (1) A nonlicensee, or a person who holds either a special license or a club license under this act, may offer and award unopened alcoholic liquor having a value of less than \$200.00 to a person 21 years of age or older in a drawing or raffle or as a door prize, pursuant to a lawful fund raising activity. The alcoholic liquor awarded shall not be consumed on the premises at which it is awarded.
- (2) A person who holds either a special license or a club license under this act and who has purchased alcoholic liquors to be awarded as provided for in subsection (1) shall be exempt from sections 1021(2) and 1025 for those purchases.
- (3) A person who holds either a special license or a club license under this act shall not sell or award alcoholic liquor to a person who is in an intoxicated condition.

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

436.2017 Sterilization of glass; method and manner.

Sec. 1017.

Alcoholic liquor shall not be served to a person for consumption on the premises unless the glass in which the alcoholic liquor is to be served has been sterilized by a method and in a manner as prescribed by the commission.

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

436.2019 Sales in hotel rooms.

Sec. 1019.

- (1) Alcoholic liquor may be served by any hotel licensed individually under this act in the room of a bona fide guest.
- (2) A person shall not consume or offer for consumption spirits or mixed spirit drink in any place licensed under this act to sell beer or wine and not licensed to sell spirits or mixed spirit drink.

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

436.2021 Selling or serving food; removal of liquor from premises; removal of partially consumed bottle of wine from premises; class A or B hotel; consumption of wine brought into premises by consumer.

Sec. 1021.

- (1) The commission shall not require a licensee to sell or serve food to a purchaser of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.
- (2) Except as otherwise provided in subsection (3), a purchaser shall not remove alcoholic liquor sold by a vendor for consumption on the premises from those premises.
- (3) A vendor licensed to sell wine on the premises may allow an individual who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the premises upon departure. This subsection does not allow the removal of any additional unopened bottles of wine unless the vendor is licensed as a specially designated

merchant. The licensee or the licensee's clerk, agent, or employee shall cap the bottle or reinsert a cork so that the top of the cork is level with the lip of the bottle. The transportation or possession of the partially consumed bottle of wine shall be in compliance with section 624a of the Michigan vehicle code, 1949 PA 300, MCL 257.624a.

- (4) This act and rules promulgated under this act do not prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises alcoholic liquor purchased by the invitee or guest from an off-premises retailer and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.
- (5) Notwithstanding section 901(6), an on-premises licensee may, in a manner as determined by that licensee, allow for the consumption of wine that is produced by a wine maker, a small wine maker, or an out-of-state entity that is the substantial equivalent of a wine maker or small wine maker and that is brought into the licensed premises in its original sealed container by a consumer who is not prohibited under this act from possessing wine. The licensee shall not allow the consumer to remove a partially consumed bottle of wine brought by the consumer unless the licensee or the licensee's clerk, agent, or employee caps the bottle or reinserts the cork so that the top of the cork is level with the lip of the bottle. The licensee may charge a corkage fee for each bottle of wine brought by the consumer and opened on the premises by the licensee or the licensee's clerk, agent, or employee. This subsection does not exempt the licensee or the consumer from any other applicable requirements, responsibilities, or sanctions imposed under this act.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998; Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002; Am. 2005, Act 21, Imd. Eff. May 19, 2005 ;-- Am. 2013, Act 235, Eff. Mar. 14, 2014.

436.2023 Pinball machines.

Sec. 1023.

The commission shall not prohibit licensees from allowing pinball machines on the premises for the purpose of amusement.

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

436.2024 Automatic teller machine; preventing access to cash benefits from Michigan bridge card; definitions.

Sec. 1024.

- (1) A retailer shall work with the department of human services and with persons that provide automatic teller machine services on the retailer's premises to prevent an individual's access to cash benefits from Michigan bridge cards through a point of sale device or withdrawal from an automatic teller machine on the retailer's premises. For purposes of this section only, a retailer does not include a retail food store.
- (2) As used in this section:
 - (a) "Michigan bridge card" means the card that is used to distribute cash benefits by the department of human services.
 - (b) "Retail food store" means that term as defined in 7 USC 2012.

History: Add. 2013, Act 197, Eff. Feb. 1, 2014.

436.2025 Giving away alcoholic liquor; samplings or tastings of alcoholic liquor; sales to intoxicated persons prohibited; inadmissibility of breathalyzer or blood alcohol test results.

Sec. 1025.

- (1) A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only.
- (2) Subsection (1) does not prevent any of the following:
 - (a) A vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.

- (b) A person from conducting of any sampling or tasting authorized by section 537 or rule of the commission.
- (c) A class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from giving away alcoholic liquor to an invitee or guest in connection with a business event or as a part of a room special or promotion for overnight accommodations.
- (3) A vendor shall not sell an alcoholic liquor to a person in an intoxicated condition.
- (4) Evidence of any breathalyzer or blood alcohol test results obtained in a licensed establishment, or on property adjacent to the licensed premises and under the control or ownership of the licensee, shall not be admissible to prove a violation of this section, section 707(1), (2), (3), or (4), or section 801(2). To establish a violation of this section, section 707(1), (2), (3), or (4), or section 801(2), the person's intoxicated condition at the time of the sale or consumption of alcohol must be proven by direct observation by law enforcement or commission enforcement personnel or through other admissible witness statements or corroborating evidence obtained as part of the standard investigation other than breathalyzer or blood alcohol test results.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;-Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002;-Am. 2008, Act 11, Imd. Eff. Feb. 29, 2008; Am. 2010, Act 213, Eff. November 17, 2010

436.2027 Samplings or tastings of alcoholic liquor generally.

Sec. 1027.

- (1) Unless otherwise provided by rule of the commission, a person shall not conduct samplings or tastings of any alcoholic liquor for a commercial purpose except at premises that are licensed by the commission for the sale and consumption of alcoholic liquor on the premises.
- (2) Notwithstanding section 1025(1) or (2), a retailer licensed by the commission for consumption on the premises may allow customers to sample beer, wine, and spirits if the retailer does not charge for the samples provided to customers. Sample serving sizes shall not exceed 3 ounces for beer, 2 ounces for wine, and 1/2 ounce for spirits. A customer shall not be provided more than 2 samples within a 24-hour period per licensed premises.
- (3) This section does not prohibit any of the following:
 - (a) A vendor of spirits, brewer, wine maker, mixed spirit drink manufacturer, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state if the sampling or tasting is conducted pursuant to prior written approval of the commission.
 - (b) An on-premises licensee from giving a sampling or tasting of alcoholic liquor to an employee of the licensee during the legal hours for consumption for the purpose of educating the employee regarding 1 or more types of alcoholic liquor if the employee is at least 21 years of age.
 - (c) A small distiller licensee from giving a sampling or tasting of brands it manufactures on the licensed premises or an off-site tasting facility operated by that small distiller.
 - (d) A micro brewer, brewpub, or on-premises licensee from allowing the sampling and consumption on the licensed premises of beer, wine, mead, honey-based beer, or cider produced by 1 or more home brewers at a meeting of home brewers, or a club composed primarily of home brewers, under the following circumstances:
 - (i) The sampling or consumption is for the purpose of exhibitions or competitions involving home brewers.
 - (ii) The beer, honey-based beer, or cider is served in portions that do not exceed 3 ounces. The wine or mead is served in portions that do not exceed 2 ounces.
 - (iii) The beer, wine, mead, honey-based beer, or cider produced by the home brewer is only consumed by the home brewer, the home brewer's family, a club member, a judge, or a guest speaker and is not sold to members of the general public.
 - (iv) The participants in the sampling or consumption otherwise comply with applicable state and federal law and applicable regulatory provisions of this act and rules adopted by the commission under this act.
 - (v) The participants in the sampling or consumption are not charged for the sampling or consumption of the beer, wine, mead, honey-based beer, or cider.

- (4) A vendor of spirits or a manufacturer may conduct a consumer sampling event on the premises of a holder of a specially designated distributor license upon submission of a completed application to the commission.
- (5) The holder of a consumer sampling event license shall comply with the following:
 - (a) The commission must be notified in writing a minimum of 10 working days before the event with the date, time, and location of the event.
 - (b) The consumer sampling event is limited to 3 events per vendor of spirits or manufacturer per specially designated distributor license per month.
 - (c) The vendor of spirits or manufacturer conducting the consumer sampling event must have a licensed representative present at the specially designated distributor's establishment.
 - (d) Licensed representatives or an authorized representative may distribute merchandise, not to exceed \$100.00 in value, to consumers 21 years of age or older during the event.
 - (e) Participating specially designated distributor licensees do not receive any fee or other valuable consideration for participating in the event.
 - (f) Each consumer is limited to 3 samples, which total no more than 1/3 ounce of spirits per serving.
 - (g) The consumer is not charged for and does not purchase any sample.
 - (h) The alcoholic liquor used in the consumer sampling event is provided by the vendor of spirits or manufacturer, and purchased at the minimum retail selling price fixed by the commission from the specially designated distributor on whose premises the event is located. The vendor of spirits or manufacturer shall remove any unfinished product from the premises at which the event is held upon completion of the event.
 - (i) A consumer sampling event shall not be allowed if the sale of alcoholic liquor is otherwise prohibited on the premises at which the event is conducted.
 - (j) Samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic liquor.
 - (k) A consumer sampling event may be advertised in any type of media and the advertisements may include the date, time, location, and other information regarding the event.
 - (l) The participating vendor of spirits or manufacturer and specially designated distributor licensees must comply with this act and commission rules.
 - (m) The vendor of spirits or manufacturer must demonstrate that the individual actually conducting the sampling has successfully completed the server training program in the manner provided for in section 906 and rules promulgated by the commission.
- (6) Violation of this section subjects the vendor of spirits or manufacturer to the sanctions and penalties as provided for under this act.
- (7) The commission, by rule or issuance of an order, may further define eligibility for licensure and processes for conducting consumer sampling events.
- (8) A sampling or tasting of any alcoholic liquor in a home or domicile for other than a commercial purpose is not subject to this section.
- (9) Before a micro brewer, brewpub, or on-premises licensee allows an event to be held under subsection (3)(d), the micro brewer, brewpub, or on-premises licensee shall enter into a written agreement with the home brewers or home brewers club stating all of the following:
 - (a) The date and time the event will be held.
 - (b) The location of the event.
 - (c) Either of the following:
 - (i) A statement that the micro brewer, brewpub, or on-premises licensee acknowledges that it is not in control of an unregulated alcoholic beverage at its establishment and agrees to assume liability under section 801(3) for the event.
 - (ii) Proof that the home brewers or home brewers club has obtained a bond or liability insurance equal to that required under section 803(1).
- (10) As used in this section:
 - (a) "Commercial purpose" means a purpose for which monetary gain or other remuneration could reasonably be expected.
 - (b) "Home brewer" means an individual who manufactures beer, wine, mead, honey-based beer, or cider at his or her dwelling.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am 2001, Act 46, Imd. Eff. July 23, 2001;—Am. 2008, Act 218, Imd. Eff. July 16, 2008; Am. 2010 Act 175, Imd. Eff. Sept. 30, 2010; Am. 2010, Act 213, Eff. November 17, 2010; Am. 2011, Act 219, Eff. November 10, 2011.

436.2029 Packaging of nonalcoholic carbonated beverages with spirits.

Sec. 1029.

- (1) The commission, by promulgation of a rule, issuance of an order, or execution of a memorandum of understanding with the department of treasury, or any combination thereof, may allow the conduct by a manufacturer or outstate seller of spirits of a preapproved program for marketing spirits by inclusion of nonalcoholic carbonated beverages to be packaged with spirits. The commission may, in conjunction with the department of treasury, adopt a program that disallows the redemption of returnable containers from the commission but otherwise allows redemption of Michigan-sold returnable containers at other venues, and shall allow for a system of appropriate allocation of funds under 1976 IL 1, MCL 445.571 to 445.576, by means of the issuance of an order or by adoption of a rule.
- (2) The commission shall provide for a system of non-mail-in or instant coupon transactions that does not diminish the spirit product margins allocated to the state under this act by means of the issuance of an order or by adoption of a rule.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;Am. 2010 Act 175, Imd. Eff. Sept. 30, 2010.

436.2030 Sale of keg beer; duties of retailer; receipt; contents of receipt; signature of purchaser; notice; identification tags; availability; size; materials; retention of copy of receipt; violation; sanctions; attachment of tag to beer keg; return of untagged keg by commission agent or law enforcement agent; "keg" defined.

Sec. 1030.

- (1) A retailer selling beer in a keg shall do all of the following:
 - (a) Attach an identification tag, as prescribed by the commission, on the keg before or at the time of the sale of the beer.
 - (b) Require the purchaser of the beer to complete and sign a receipt as prescribed by the commission under subsection (2) after presentation of a driver license or state of Michigan identification card. If the purchaser of the beer does not possess a driver license or state of Michigan identification card, the retailer shall not sell beer in a keg to the customer.
 - (c) Refuse to return the keg deposit if the identification tag is not attached when returned.
 - (d) Retain a keg deposit as specified in R 436.1629 of the Michigan administrative code.
- (2) The commission shall prescribe the receipt described in subsection (1) for use in the sale of beer by the keg. The receipt shall contain at least a place for the printed name, address, telephone number of the purchaser of the beer, the driver license or state of Michigan identification number of the purchaser, and the beer keg tag number. The purchaser of the beer shall sign the receipt. The retailer shall not sell beer in a keg unless the receipt is completed and accompanied by the signature of the purchaser. A notice containing the information described in subdivisions (a), (b), and (c) shall be printed on the receipt in boldfaced type the same size as the type used on other parts of the receipt. The notice shall state all of the following:
 - (a) That the retailer will not return the keg deposit to the purchaser of the beer if the tag is not attached to the keg upon its return.
 - (b) That the individual signing the receipt does so with the understanding that he or she agrees not to damage the keg and not to remove or alter the attached tag.
 - (c) That the individual signing the receipt does so with the understanding that he or she is subject to liability for serving the beer to any minor.
- (3) The commission shall make identification tags available to retailers selling beer in a keg. The identification tags shall be of such size and materials as to make the identification tags easily removable for the purpose of the cleaning and the reusing of the keg by the owner of the keg. Upon request, the commission shall distribute and make available the tags in numbered lots to retailers selling beer in a keg.

- (4) Retailers selling beer in a keg shall retain a copy of the receipt described in subsection (1) for not less than 30 days after the date the keg was returned and shall make the copy available for inspection by the commission and law enforcement agencies.
- (5) Notwithstanding section 909, a person violating this section under the following circumstances is subject to the applicable sanctions:
 - (a) A retailer who has failed to apply an identification tag on a keg, intentionally failed to complete the receipt as prescribed by the commission, or failed to obtain the purchaser's signature on the receipt is liable for an administrative fine of not more than \$50.00.
 - (b) A person who is not a retailer or a wholesaler licensed by the commission is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, for any of the following:
 - (i) Removing an identification tag from a keg containing beer.
 - (ii) Allowing the removal of an identification tag from a keg of beer purchased by that individual.
 - (iii) Providing false information in the purchase of beer in a keg.
- (6) This section requires the attaching of a tag to a beer keg sold at retail for use by a member of the general public and does not require a retailer or licensee to attach a tag to a keg that is being used for on-premises consumption only, being stored, being transported, or being used by a caterer providing the catering service.
- (7) This section does not prohibit a commission agent or a law enforcement agent from returning an untagged keg and receiving the keg deposit on behalf of the commission or the law enforcement agency.
- (8) As used in this section, "keg" means any brewery-sealed individual container having liquid capacity of 5 gallons or more.

History: Add. 2010, Act 344, Imd, Eff. Dec. 21, 2010

436.2031 "Wine auction license" defined; issuance of license; restrictions; payment of taxes; delivery, storage, warehousing, and delivery of wine; sale and resale of wine purchases at auction.

Sec. 1031.

- (1) As used in this section, "wine auction license" means a license issued by the commission to sell wine by auction, subject to the following:
 - (a) The wine is sold through an auction by a person licensed as a specially designated merchant or through a seller partnering with a specially designated merchant, as evidenced by a written agreement of the parties.
 - (b) The owner of the wine is not licensed under this act.
 - (c) The wine is part of a private collection owned by a person not licensed under this act.
 - (d) The specially designated merchant ensures that each bottle sold from the private collection has a permanently affixed tag or label stating that the wine was acquired from a private collection.

436.1529 Transfer of license or interest in license; notice of transfer of stock in licensed corporation or licensed limited partnership; investigation to ensure compliance; approval; transfer fee; inspection fee.

Sec. 529.

- (1) A license or an interest in a license shall not be transferred from 1 person to another without the prior approval of the commission. For purposes of this section, the transfer in the aggregate to another person during any single licensing year of more than 10% of the outstanding stock of a licensed corporation or more than 10% of the total interest in a licensed limited partnership shall be considered to be a transfer requiring the prior approval of the commission.
- (2) Not later than July 1 of each year, each privately held licensed corporation and each licensed limited partnership shall notify the commission as to whether any of the shares of stock in the corporation, or interest in the limited partnership, have been transferred during the preceding licensing year. The commission may investigate the transfer of any number of shares of stock in a licensed corporation, or any amount of interest in a licensed limited partnership, for the purpose of ensuring compliance with this act and the rules promulgated under this act.
- (3) Except as otherwise provided in subdivisions (a) through (f), upon approval by the commission of a transfer subject to subsection (1), there shall be paid to the commission a transfer fee equal to the fee provided in this act for the class of license being transferred. A transfer fee shall not be prorated for a portion of the effective period of the license. If a person holding more than 1 license or more than 1 interest in a license at more than 1 location, but in the name of a single legal entity, transfers all of the licenses or interests in licenses simultaneously to another single legal entity, the transfers shall be considered 1 transfer for purposes of determining a transfer fee, payable in an amount equal to the highest license fee provided in this act for any of the licenses, or interests in licenses, being transferred. A transfer fee shall not be required in regard to any of the following:
 - (a) The transfer, in the aggregate, of less than 50% of the outstanding shares of stock in a licensed corporation or less than 50% of the total interest in a licensed limited partnership during any licensing year.
 - (b) The exchange of the assets of a licensed sole proprietorship, licensed general partnership, or licensed limited partnership for all outstanding shares of stock in a corporation in which either the sole proprietor, all members of the general partnership, or all members of the limited partnership are the only stockholders of that corporation. An exchange under this subdivision shall not be considered an application for a license for the purposes of section 501.
 - (c) The transfer of the interest in a licensed business of a deceased licensee, a deceased stockholder, or a deceased member of a general or limited partnership to the deceased person's spouse or children.
 - (d) The removal of a member of a firm, a stockholder, a member of a general partnership or limited partnership, or association of licensees from a license.
 - (e) The addition to a license of the spouse, son, daughter, or parent of any of the following:
 - (i) A licensed sole proprietor.
 - (ii) A stockholder in a licensed corporation.
 - (iii) A member of a licensed general partnership, licensed limited partnership, or other licensed association.
 - (f) The occurrence of any of the following events:
 - (i) A corporate stock split of a licensed corporation.
 - (ii) The issuance to a stockholder of a licensed corporation of previously unissued stock as compensation for services performed.
 - (iii) The redemption by a licensed corporation of its own stock.
- (4) A nonrefundable inspection fee of \$70.00 shall be paid to the commission by an applicant or licensee at the time of filing any of the following:
 - (a) An application for a new license or permit.
 - (b) A request for approval of a transfer of ownership or location of a license.

- (c) A request for approval to increase or decrease the size of the licensed premises, or to add a bar.
 - (d) A request for approval of the transfer in any licensing year of any of the shares of stock in a licensed corporation from 1 person to another, or any part of the total interest in a licensed limited partnership from 1 person to another.
- (5) An inspection fee shall be returned to the person by whom it was paid if the purpose of the inspection was to inspect the physical premises of the licensee, and the inspection was not actually conducted. An inspection fee shall not be required for any of the following:
- (a) The issuance or transfer of a special license, salesperson license, limited alcohol buyer license, corporate salesperson license, hospital permit, military permit, or Sunday sale of spirits permit.
 - (b) The issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.
 - (c) The issuance of authorized but previously unissued corporate stock to an existing stockholder of a licensed corporation.
 - (d) The transfer from a corporation to an existing stockholder of any of the corporation's stock that is owned by the corporation itself.
- (6) All inspection fees collected under this section shall be deposited in the special fund in section 543 for carrying out of the licensing and enforcement provisions of this act.

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

436.1531 Public licenses and resort license; on-premises escrowed license; limitations and quotas; additional licenses for certain establishments; license for certain events at public university; outdoor stadium; economic development factors; exceptions as to certain veterans and airports; special state census of local governmental unit; rules; availability of transferable licenses held in escrow; on-premises escrowed or quota license; issuance of available licenses; report; hotels; escrowed specially designated distributor license; transfer; applicability of administrative rule; definitions.

Sec. 531.

- (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. An on-premises escrowed license issued under this subsection may be transferred, subject to local legislative approval under section 501(2), to an applicant whose proposed operation is located within any local governmental unit in a county in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license may be transferred, subject to local legislative approval under section 501(2), to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of an on-premises licensee of any class to reclassify to another class of on-premises license in a manner not in violation of law or this act, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection is subject to approval by the local governmental unit having jurisdiction.
- (2) In a resort area, the commission may issue no more than 550 licenses for a period not to exceed 12 months without regard to a limitation because of population and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.
- (3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 5 additional licenses per year to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, whose primary purpose is not for the sale of alcoholic liquor, and whose capital investment in real

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

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

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

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

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

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

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

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

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

436.1534 Small distiller license.

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

436.1535 Vendor as authorized to do business.

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

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

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.

LICENSING QUALIFICATIONS

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

R 436.1101 Rescinded.

History: 1954 ACS 94, Eff. Mar. 15, 1978; 1979 AC; rescinded 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1103 Application for license; forms; required information.

Rule 3.

- (1) An application for a license shall be made to the commission in Lansing on forms approved by the commission.
- (2) An applicant for a license shall provide to the commission, or representatives of the commission, all information necessary for investigation and processing of the application.

History: 1954 ACS 94, Eff. Mar. 15, 1978; 1979 AC

R 436.1105 Application for license; denial; grounds.

Rule 5.

- (1) An applicant for a license shall provide evidence in the application of, or demonstrate at a hearing, all of the following:
 - (a) Any of the following:
 - (i) If an individual, that the applicant is the legal age for the consumption of alcoholic liquor in this state.
 - (ii) If a partnership, that all partners are the legal age for the consumption of alcoholic liquor in this state.
 - (iii) If a privately held corporation, that all stockholders are the legal age for the consumption of alcoholic liquor in this state, unless the stock of the stockholders is held in a fiduciary relationship.
 - (iv) If a limited liability company, that all members are the legal age for the consumption of alcoholic liquor in this state.
 - (b) The existence of adequate legitimate and verifiable financial resources for the establishment and operation of the proposed licensed business in proportion to the type and size of the proposed licensed business.
 - (c) The existence of an adequate physical plant or plans for an adequate physical plant appropriate for the type and size of the proposed licensed business.
 - (d) That the location of the proposed licensed business shall adequately service the public.
- (2) The commission shall consider all of the following factors in determining whether an applicant may be issued a license or permit:
 - (a) The applicant's management experience in the alcoholic liquor business.
 - (b) The applicant's general management experience.
 - (c) The applicant's general business reputation.
 - (d) The opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business.
 - (e) The applicant's moral character.
 - (f) The order in which the competing initial application forms are submitted to the commission; however, this subdivision shall not apply to an application for a resort license authorized by section 531 of 1998 PA 58, MCL 436.1531.
 - (g) Past convictions of the applicant for any of the following:
 - (i) A felony.
 - (ii) A crime involving the excessive use of alcoholic liquor.
 - (iii) A crime involving any of the following:
 - (a) Gambling.
 - (b) Prostitution.
 - (c) Weapons.
 - (d) Violence.

- (e) Tax evasion.
 - (f) Fraudulent activity.
 - (g) Controlled substances.
 - (iv) A misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner.
 - (v) Sentencing for any of the offenses specified in this subrule after a plea of nolo contendere.
 - (h) The applicant's excessive use of alcoholic liquor.
 - (i) The effects that the issuance of a license would have on the economic development of the area.
 - (j) The effects that the issuance of a license would have on the health, welfare, and safety of the general public.
- (3) An application for a new license, an application for any transfer of interest in an existing license, or an application for a transfer of location of an existing license shall be denied if the commission is notified, in writing, that the application does not meet all appropriate state and local building, plumbing, zoning, fire, sanitation, and health laws and ordinances as certified to the commission by the appropriate law enforcement officials. The commission may accept a temporary or permanent certificate of occupancy for public accommodation issued by the appropriate officials as evidence of compliance with this subrule.

History: 1954 ACS 94, Eff. Mar. 15, 1978; 1979 AC; 1985 MR 8, Eff. Aug. 22, 1985; 1994 MR 12, Eff. Dec. 16, 1995; 2000 MR 3, Eff. March 20, 2000; 2004 MR 6, Eff. March 24, 2004.

R 436.1107 Renewal of license.

Rule 7.

- (1) A license that is not in active operation shall be placed in escrow with the commission.
- (2) A licensee shall have only 5 licensing years after the expiration date of the escrowed license to put the license into active operation. If the licensee fails to put the license into active operation within 5 years after its expiration, then all rights to the license shall terminate unless the commission has received written verification of either of the following:
 - (a) That the license or an interest in the license is the subject of litigation or estate or bankruptcy proceedings in a court of competent jurisdiction.
 - (b) That the license was placed into escrow as a result of damage to the licensed premises by fire, flood, tornado or other natural event that makes the licensed premises unsuitable for the operation of the business and unsafe for public accommodation.
- (3) If the commission extends the length of time for which a licensee may renew the license during the pendency of litigation or estate or bankruptcy proceedings or as a result of damage to the licensed premises for the reasons as stated in subrule (2) of this rule, then the licensee shall pay the required license fee for each elapsed licensing year before placing the license in active operation.
- (4) The commission may extend the length of time for which a licensee may renew the license upon written order of the commission after a showing of good cause.
- (5) Except as provided in subrule (3) of this rule, a license held in escrow with the commission shall be renewed in the same manner as an active license, including payment of all required license fees, each year by April 30.
- (6) A licensee who places a license in escrow with the commission shall be responsible for providing the commission with current contact information, in writing, for all correspondence, which includes the name, mailing address, and telephone number.
- (7) The commission shall provide or attempt to provide each licensee whose license is in escrow with a copy of this rule.
- (8) A license that is held in escrow with the commission on the effective date of this rule begins the 5-year period allowed by subrule (2) of this rule on March 24, 2004.

History: 1979 AC; 2004 AACs; 2010 MR 8, Eff. Apr. 21, 2010

R 436.1109 Application for license by corporation; requirements.

Rule 9.

- (1) A corporation applying for a license shall file with the commission all of the following, as

Alcoholic liquor (continued)

Open within passenger compartment, 257.624a
Possession by minor, 436.1703
Prize of, 436.2015, R436.1019, R436.1435
Prohibited sales, 436.1901, 436.1913, 436.2113
Purchase by minor, 436.1703
Purchase of spirits, less than \$10,000 per year by SDD, R436.1133
Purchase only from authorized source, 436.1203, 436.1901
Special licensee, R436.582
Purchase, spirits, by commission only, 436.1203
Raffle of, unopened, 436.2015
Refunds, R436.1423, R436.1531, R436.1735
Removal from premises, 436.2021
Representative stock (SDD), R436.1507
Sale and delivery by off-premises licensee, R436.1515, R436.1527
Sale below cost, 436.2025, R436.1055
Sale by electronic means, 436.1203
Sale, delivery or importation, 436.1203
Sale of alcohol, license required, R436.1809
Sale of spirits at uniform price, 436.1229, 436.1233, R436.1529
Sale and delivery, R436.1515
Sale below cost prohibited, R436.1055
Sale or delivery by Commission, 436.1203
Sale or service to intoxicated person, 436.1707
Sale to licensed truck driver salesman, R436.1021
Sale, right and duty to control, 436.1201
Sale, unlimited quantity, R436.1438
Samples, 436.2025, 436.2027, R436.1421, R436.1511, R436.1513, R436.1863
Sampling and tastings, 436.2025, 436.2027
Secured asset, excluded as, R436.1119
Seizure of, 436.1907
Sell, furnish to minor, 436.1905
Solicitation, R436.1417, R436.1423, R436.1519
Spirits,
Advertisement, R436.1307
Less than minimum retail selling price, hotel, 436.1229
Spoiled, refund, R436.1531
Storage, off premise, R436.1025
Refill, 436.2005
Return of, R436.1531
Transportation through Michigan, bill of lading required, R436.1632, R436.1722
Transportation and possession by minor, 436.1703, R436.1009, R436.1011; and employee under 21, 257.624b
MI Vehicle Code
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