



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN LIQUOR CONTROL COMMISSION
ANDREW J. DELONEY
CHAIRMAN

STEVE ARWOOD
DIRECTOR

NOTICE OF PUBLIC HEARING

The Michigan Liquor Control Commission will hold a public hearing on Wednesday, March 19, 2014 at 2:00 p.m. in the Jacquelyn A. Stewart Hearing Room, Second Floor, General Office Building, 7150 Harris Drive, Dimondale, Michigan. The hearing will be held to receive public comments on the proposed rule amendment:

- R 436.1321 (ORR No. 2013-110-LR) of the Liquor Control Commission's "Advertising" rules to rescind subsection (2) which prohibits spirit advertising on the premises of a retail licensee except as provided in the rules and by order of the Commission; to rescind subsection (3) which prohibits advertising of alcoholic liquor on items which have value, use, or purpose other than actual advertising, and to rescind subsection (8) which prohibits an on-premises licensee from selling, giving, furnishing, or using novelty items that contain alcoholic liquor advertising except upon written order of the Commission.

This rule is being revised under the authority conferred on the Michigan Liquor Control Commission by section 215(1) of Act No. 58 of the Public Acts of 1998, as amended. This rule revision will take effect immediately upon filing with the Secretary of State.

The rule is published on the Michigan government web site under the Department of Licensing and Regulatory Affairs, ORR No. 2013-110-LR at http://www.michigan.gov/lara/0,4601,7-154-35738_5695---,00.html. The amendments to the rule will be published in the March 1, 2014, *Michigan Register*. A copy of the amended rule may be obtained at the Liquor Control Commission's Lansing Office during regular business hours. A copy may also be obtained by contacting the Liquor Control Commission's Lansing Office, by mail at 7150 Harris Drive, PO Box 30005, Lansing, MI 48909, Attn. Anita Fawcett; by telephone at 517-322-1353; by fax at 517-322-5188; and by email at fawcetta@michigan.gov.

All interested persons are invited to attend the hearing to present data and views orally or in writing. Anyone unable to attend may submit comments in writing to Anita Fawcett at the above address. Written comments must be received by 5 p.m. on March 19, 2014. If your presentation at the public hearing is in written form, please provide a copy to the court reporter at the conclusion of your testimony at the hearing.

The hearing site is accessible, including handicapped parking. Individuals attending the meeting are requested to refrain from using heavily scented personal care products in order to enhance accessibility for everyone. Persons needing accommodations for effective participation in the meeting should contact Anita Fawcett at 517-322-1353 at least 14 days prior to the hearing.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

LIQUOR CONTROL COMMISSION

ADVERTISING

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the liquor control commission by section 215(1) of 1998 PA 58, MCL 436.1215(1), and Executive Reorganization Order No. 2011-4, MCL 445.2030)

R 436.1321 Contests and advertising articles.

Rule 21. (1) There shall not be advertising of alcoholic liquor connected with offering a prize or award on the completion of a contest, except upon prior written approval of the commission.

~~(2) 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)(2) Advertising material which does not contain the name of a retail licensee and does not have a secondary value, but explains the production, sale, or consumption of alcoholic liquor may be published and distributed in this state.

~~(5)~~(3) Alcoholic liquor recipe literature which does not contain the name of a retail licensee may be published and distributed in this state.

~~(6)~~(4) All gambling devices, including punch boards and games of any description used for advertising purposes, are prohibited.

~~(7)~~(5) A manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler may sell novelty items bearing brand logo type, upon written order of the commission. These novelty items shall not be sold below their cost by the manufacturer, outstate seller of beer, outstate seller of wine, or wholesaler.

~~(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.~~

January 22, 2014

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
111 S. Capitol Ave.; 4th Floor, Romney Building
PO Box 30004; Lansing, MI 48909
Phone (517) 335-8658 FAX (517) 335-9512

**REGULATORY IMPACT STATEMENT
and
COST-BENEFIT ANALYSIS**

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2013-110 LR

ORR rule set title:

Liquor Control Commission Advertising

Department:

Licensing and Regulatory Affairs

Agency or Bureau/Division

Liquor Control Commission

Name and title of person completing this form; telephone number:

Julie Wendt, Director of Executive Services Division, 517-322-5947

Reviewed by Department Regulatory Affairs Officer:

Liz Arasim
Department of Licensing and Regulatory Affairs

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

(a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.

(b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

(c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.

(d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

(a) 0-9 full-time employees.

(b) 10-49 full-time employees.

(c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

Authority to Promulgate Rules

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Liquor Control Commission (Commission) shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Section 201(2) of the Liquor Control Code of 1998 (Code), MCL 436.1201(2) grants the Commission the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession, transportation, and sale thereof. Section 215(1) of the Code, MCL 436.1215(1) requires the Commission to adopt rules and regulations governing the carrying out of the Code and the duties and responsibilities of licensees in the proper conduct and management of their licensed businesses.

Federal Regulations

Title 27, part 6, subpart A of the Code of Federal Regulations (C.F.R.) describes the scope of the regulations in this part that specifies means to induce under section 105(b) of the Federal Alcohol Administration Act, criteria for determining whether a practice is in violation of section 105(b) and exceptions to section 105(b). Subpart A continues on to state that nothing in part 6 shall operate to exempt any person from the requirements of any State law or regulation.

Title 27, part 6, subpart B defines “equipment” as all functional items such as tap boxes, glassware, pouring racks, and similar items used in the conduct of a retailer’s business. Subpart B defines “retailer” as any person engaged in the sale of distilled spirits, wine, or malt beverages to consumers.

Title 27, part 6, subpart C makes it unlawful for any industry member to induce, directly or indirectly, any retailer to purchase products from the industry member to the exclusion, in whole or in part, of such products sold or offered for sale by other persons in interstate or foreign commerce by furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other things of value, subject to the exceptions contained in subpart D.

Title 27, part 6, subpart D provides certain conditions and limitations under which an industry member may furnish a retailer equipment, inside signs, supplies, services, or other things of value as follows:

1. An industry member may give or sell point of sale advertising materials which includes but is not limited to posters, placards, designs, inside signs, window decorations, trays, coaster, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverages lists or menus.
2. An industry member may give or sell consumer advertising specialties which are designed to be carried away by the consumer that includes but is not limited to trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.
3. An industry member may sell equipment or supplies to a retailer at a price not less than the cost to the industry member who initially purchased them and the price is collected within 30 days of the date of sale. As noted above equipment includes glassware.

The revision of R 436.1321 to remove subsections (2), (3), and (8) will allow retailers to purchase at not less than cost and use those point of sale advertising materials, advertising specialty items, and equipment exempted under the referenced federal codes without a written order of the Commission.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

The rules and regulations in Illinois, Indiana, Ohio, Pennsylvania, and Wisconsin were researched relative to alcoholic liquor advertising on anything which has value, use, or purpose other than the actual advertising value. Each of these states in the region allows alcohol advertising on items which have secondary use and value in varying degrees, but each of these states has detailed statutes, rules, regulations, and/or trade practice policies governing the providing and use of these items.

Illinois Liquor Control Commission has trade practice policies defining and determining what constitutes “of value” and regulating consumer specialties, buckets, coolers, signage and other advertising material. Consumer specialty items (hats, t-shirts, mugs, steins, key chains, sunglasses, lighters and the like) which are intended to be given to and received by the consumer may be given to the retailer if they are not used by the retailer and only given to the consumer. These items may also be purchased by the retailer. Coasters, trays, napkins, glassware, cups, and plastic buckets must be sold to retailers as they are not considered inside signs or advertising materials.

Indiana may provide advertising specialties (trays, coasters, mats, paper napkins, meal checks, clocks, and other items approved by the Indiana Alcoholic Beverage Commission) and consumer advertising specialties (bottle or can openers, corkscrews, coasters, shopping bags, and other items approved by the Indiana Alcoholic Beverage Commission) with record keeping requirements.

Ohio allows trays, bar caddys, bar mats, stir sticks, t-shirts, hats, buckets, glassware, and other similar items to be provided to the retailer if the cost does not exceed \$25 per item, there is no cost to the wholesaler, the retailer does not receive more than \$25 worth of glassware or other containers for serving of alcoholic beverages at one time and not more than twice per year. Bottle or can openers, key chains, beads, bottle or can holders, and other similar items intended for use by consumers may be provided to the retailer if the cost does not exceed \$3 per item.

Pennsylvania allows advertising novelties such as matches, disposable lighters, bottle or can openers, caps, t-shirts and other similar items of nominal value to be provided to the retailer and whether an item constitutes equipment is determined on a case by case basis. Shelving, glassware, buckets, coasters, and wristbands constitute equipment and must be purchased from a third party provider that is not a supplier of alcohol or otherwise licensed by the Pennsylvania Liquor Control Board. Advertising novelties provided to the retailer may not be used as equipment. Nominal value is set by the Pennsylvania Liquor Control Board and is currently \$15 per item, wholesale cost.

Wisconsin allows signs, clocks, or menu boards not exceeding an aggregate value of \$2,500 to be provided to a retailer as well as signs made from paper, cardboard, plastic, vinyl, or like material for placement inside the premises. Miscellaneous advertising specialty items must be sold at fair market value to the retailer.

The revision of R 436.1321 to remove subsections (2), (3), and (8) will allow retailers to purchase at not less than cost and use those point of sale advertising materials, advertising specialty items, and equipment that is used in the referenced states above.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other

federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The Commission is not aware of any laws, rules, or legal requirements that will duplicate, overlap, or conflict with the revision of R 436.1321 to remove subsections (2), (3), and (8).

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The revision of R 436.1321 removes the provision that requires Commission approval of spirit advertising on the premises of a retail licensee as contained in subsection (2); removes the provision that requires Commission approval of alcoholic liquor advertising on anything which has value, use, or purpose other than the actual advertising value contained in subsection (3) of the rule; and removes the provision that requires Commission approval to use, sell, furnish, or give specialty items displaying alcoholic beverage brand logos in on-premises licensed establishments contained in subsection (8) of the rule. These revisions will allow retailers to purchase at not less than cost and use point of sale advertising materials, advertising specialty items, and equipment without obtaining prior written approval of the Commission.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

The MLCC is charged with the duty of controlling the manufacture, possession, transportation, and sale of alcoholic beverages within the State of Michigan. In the instant matter, the MLCC is in the position of balancing the competing interests of controlling alcoholic beverages in such a manner as to discourage overconsumption and deter exclusive sales or tied house detriments with the advertising of a lawful product and activity. The revision of R 436.1321 will allow the licensees to purchase at not less than cost and use point of sale advertising materials, advertising specialty items, and equipment without obtaining prior written approval of the Commission. There is no increased harm that will occur as a result of these revisions.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The state's interests in deterring exclusive sales or tied house harms to the general health, safety, and welfare of the public will continue to be maintained after the rescission of subsections (2), (3) and (8) of R 436.1321 because Section 609 of the Michigan Liquor Control Code of 1998, MCL 436.1609, prohibits a manufacturer/supplier and a wholesaler from aiding or assisting any other vendor by gift, loan of money or property of any description, or other valuable thing. The revision of R 436.1321 will allow the licensees to purchase at not less than cost and use specialty items with alcoholic beverage advertising to market alcoholic beverage products in their licensed establishments without prior approval of the Commission.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

In the interest of ensuring that Michigan's regulatory environment is simple, fair, efficient and conducive to business growth and job creation while maintaining public health and safety, the Commission is in the process of reviewing all of its rule sets to ensure that the rules are consistent with current policies and processes. The remaining rules in this rule set will be a part of that process.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

The revision to R 436.1321 will have no measurable fiscal impact on the agency.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

There are no expenditures associated with the revision of R 436.1321.

Impact on Other State or Local Governmental Units:

(10) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

The revision to R 436.1321 does not impose any requirements that will increase or decrease the revenues to other state or local governmental units.

(11) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

The revision to R 436.1321 does not impose a program, service, duty or responsibility on any county, city, township, village, or school district.

(12) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

There are no additional expenditures to state or local governmental units associated with the revision to R 436.1321.

Rural Impact:

(13) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

The revision of R 436.1321 will have no impact on rural areas.

Environmental Impact:

(14) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The revision of R 436.1321 will have no impact on the environment.

Small Business Impact Statement:

[Please refer to the discussion of "small business" on page 2 of this form.]

(15) Describe whether and how the agency considered exempting small businesses from the proposed rules.

The revision of R 436.1321 will apply to all licensed businesses; will allow retailers to purchase at not less than cost and use point of sale advertising materials, advertising specialty items, and equipment but not require businesses to purchase or sell those items; and will not have a disproportionate economic impact on small businesses.

(16) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

The revision of R 436.1321 will not have a disproportionate economic impact on small businesses as the revisions impose no reporting or compliance requirements.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

The revision of R 436.1321 applies to all licensed businesses. The Commission does not collect or have access to information that would allow the identification of which licensed businesses are small businesses under MCL 24.240(1)(a)(b)(c)(d).

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

The revision of R 436.1321 does not impose any compliance, reporting, or record-keeping requirements on the licensees.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

The revision of R 436.1321 does not impose any compliance, reporting, or record-keeping requirements on the licensees.

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The revision of R 436.1321 does not impose any performance standards on the licensees.

(17) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The revision of R 436.1321 does not have any disproportionate impact on the licensees because of their size or geographic location.

(18) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

The revision of R 436.1321 does not require the preparation of any report by the licensees.

(19) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There are no costs for compliance associated with the revision of R 436.1321.

(20) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There are no legal, consulting, or accounting costs to licensees associated with the revision of R 436.1321.

(21) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no known costs to licensees associated with the revision of R 436.1321. The revision of R 436.1321 will allow licensees to purchase at not less than cost and use specialty items with alcoholic

beverage advertising to market alcoholic beverage products in their licensed establishments without prior approval of the Commission.

(22) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There are no known increased costs associated with the revision of R 436.1321.

(23) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There are no requirements or standards of compliance imposed on licensees as a result of the revision of R 436.1321.

(24) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

The Michigan Licensed Beverage Association and the Michigan Restaurant Association represent licensees which include countless small businesses. These associations were involved in the development of the revision of R 436.1321.

Cost-Benefit Analysis of Rules (independent of statutory impact):

(25) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

No known compliance costs to licensees will be incurred as a result of the revision of R 436.1321.

(26) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

No known compliance costs to licensees will be incurred as a result of the revision of R 436.1321.

(27) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

No known costs reductions will be incurred as a result of the revision of R 436.1321.

(28) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The revision of R 436.1321 will allow licensees to purchase at not less than cost and use specialty items with alcoholic beverage advertising to market alcoholic beverage products in their licensed establishments without obtaining prior approval of the Commission.

(29) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

There is no measurable impact from the revision of R 436.1321.

(30) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There are no known groups that will be disproportionately affected by the revision of R 436.1321.

(31) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

There are no known costs associated with the revision of R 436.1321. Therefore, the revised rules did not require estimates or a cost-benefit analysis. The revision of R 436.1321 was initiated at the request of the Michigan Licensed Beverage Association and the Michigan Restaurant Association.

Alternatives to Regulation:

(32) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

The state’s interests in deterring exclusive sales or tied house harms to the general health, safety, and welfare of the public will continue to be maintained after the rescission of subsections (2), (3) and (8) of R 436.1321 because Section 609 of the Michigan Liquor Control Code of 1998, MCL 436.1609, prohibits a manufacturer/supplier and a wholesaler from aiding or assisting any other vendor by gift, loan of money or property of any description, or other valuable thing. The revision of R 436.1321 will allow the licensees to purchase at not less than cost and use specialty items with alcoholic beverage advertising to market alcoholic beverage products in their licensed establishments under MCL 436.1609 without prior approval of the Commission required in the rules.

(33) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The revision of R 436.1321 does not establish a regulatory program.

(34) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

The revision of R 436.1321 was initiated at the request of the Michigan Licensed Beverage Association and the Michigan Restaurant Association.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

2-4-2014

Date RIS approved:

2-6-2014

ORR assigned rule set number:

2013-110 LR

Date of disapproval:

Explain:

More information

Explain:

| | |
|----------------|--|
| needed: | |
|----------------|--|

(ORR-RIS January 2012)