

Law Enforcement Officers' Field Brochure

January 2015

Excerpts of the
MICHIGAN LIQUOR CONTROL CODE, AMINISTRATIVE RULES AND RELATED LAWS



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INTRODUCTION

To all law enforcement officers:

The Michigan Liquor Control Commission (MLCC) has updated this information to assist you in the uniform enforcement of the Michigan Liquor Control Code, Administrative Rules and Related Laws.

The Michigan Liquor Control Code (PA 58 of 1998) requires that all sheriffs and their deputies, constables, marshals, members of municipal and township police departments, the Michigan State Police and MLCC investigators enforce the provisions of the Statute and Administrative Rules promulgated under the law. To help support this important obligation, state law directs 55% of all retail liquor license and renewal fees collected in Michigan be returned to local governments for enforcing the Michigan Liquor Control Code, Administrative Rules and Related Laws.

All persons who sell or distribute alcoholic beverages in Michigan are required by law to be licensed by the MLCC, to conform to the provisions of the MLCC, Administrative Rules and Related Laws governing alcoholic beverages sales and to cooperate with police officers and MLCC investigators. These responsibilities also extend to the clerk, servant, agent, or employees of a licensee.

State law allows action to be taken against a licensee both in court and before the Liquor Control Commission for an alleged violation of the Michigan Liquor Control Code, Administrative Rules and Related Laws. Every violation of the MLCC, Administrative Rules and Related Laws committed on the licensed premises that results in the conviction of a licensee (or their agents or employees) should be reported to the MLCC as soon as possible, as should any criminal conviction for any offense of a licensee or employee. A sample of the MLCC Violation Report and instructions on how to complete it are provided in this information.

Law enforcement officers should understand that the MLCC enforces the law only in regard to individuals, corporations, limited liability companies, and partnerships (and their clerks, servants, agents and employees) who possess a valid liquor license in Michigan. The Commission, for example, does not enforce the laws regarding persons who sell alcoholic beverages without a license (such as party hosts who charge admission and serve alcoholic drinks), even though such activities are serious violations of the Liquor Control Code.

This information is intended to provide a field reference for liquor violations that are most likely to be observed by police officers in the normal pursuit of their duties. It is also designed to aid in preparing Violation Reports for administrative hearings before the MLCC. We could not include all situations that might be encountered by police officers. The Michigan Liquor Control Code, Administrative Rules and Related Laws, as well as local ordinances, should be consulted when a violation is suspected. The MLCC and its staff are ready to assist law enforcement officers in any way possible in their efforts to ensure compliance with the Michigan Liquor Control Code, Administrative Rules and Related Laws. By maintaining a close liaison with each other, (Police and MLCC Personnel), we can more effectively enforce the provisions of the law governing the sale and distribution of alcoholic beverages in Michigan. This information has been prepared with that goal in mind.

I. Violation Reports

Sample of the LC-600 Form (Violation Report "Front" Page)



Michigan Department of Licensing and Regulatory Affairs
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

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Lansing, MI 48909-7505

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www.michigan.gov/lcc

VIOLATION REPORT

(Authorized by P.A.58 of 1998)

* Please obtain the **License No., and Bus., ID No.**, directly from the liquor license*

License No. _____ Business ID No. _____

1. Name of Licensee _____ 2. Doing Business As _____

3. Mailing Address (street, city, zip code) _____

4. Township _____ 5. County _____

6. Type of License(s) & Permit(s) _____

7. Date of Violation _____ Hour _____ Circle: AM or PM

8. Violation Type: Minor After hour's sales/consumption
 Intoxicated Person Fighting, (Must be inside licensed premises)
 Gambling Failure to Cooperate
 Controlled Substances OTHER: _____
 Prohibited Conduct

If MINOR: Birth date _____ Was this a DECOY? Yes No if no, you MUST answer below:

If above minor violation was NOT a decoy describe enforcement action taken:

COPY OF APPEARANCE TICKET MUST BE ATTACHED

9. Submit Report Below or Indicate Attached Report # _____

Officer Signature _____ Name and Title (print) _____

Officer Signature _____ Name and Title (print) _____

Department Name _____ Phone No. _____

Sample of the LC-600 Form (Violation Report “Back” Page)

WITNESSES

1. Name _____ Address _____

Will testify to: _____

2. Name _____ Address _____

Will testify to: _____

3. Name _____ Address _____

Will testify to: _____

4. Name _____ Address _____

Will testify to: _____

5. Name _____ Address _____

Will testify to: _____

Location Evidence Held (Explain): _____

Provide List of Evidence: _____

The MLCC provides a standard Violation Report Form (LC-600) for its own staff and for law enforcement agencies to use when submitting licensee violations.

All Violation Reports forwarded to the MLCC must be submitted on the LC-600 form. However, police should be aware that licensees are given copies of the Violation Report, along with other documents, such as police reports submitted prior to a hearing. Therefore, confidential information should not be included with materials sent to MLCC.

How to Complete Front of Violation Report Form

Violation Reports sent to MLCC should include the following information and facts:

1. ***From the Liquor License*** -- (License Number and Business ID Number).
2. ***The name and address of the licensee*** – It could be the name of an Individual(s), Partner(s), a Corporation or Limited Liability Company (LLC). This is located on the liquor license. The licensee’s name is in BOLD PRINT on the liquor license.
3. ***The d/b/a of the licensee is listed on the violation report as “Doing Business As”*** – Usually the trade name of the business, which normally is a name different from the legal name. Example: The corporation name may be Tina, Inc., d/b/a Tina’s Party Store.
4. ***The mailing address, (street, city, township, zip code)*** – The physical location of the business entity, also found on the liquor license.
5. ***The types of license(s) and permit(s)*** – Held by the licensee and approved by the Commission. Example: Class C, SDM, SDD, etc., are all licenses and Sunday Sales (AM) and/or (PM), Dance, Entertainment, etc., are all permits.
6. ***Date of violation*** – The day, date and year observed is to be reported. The hour and whether in the AM or PM is to be reported as well.
7. ***Violation type*** – Examples of a few types of violations are listed on the violation report. Check all boxes that apply for which a violation report will be submitted. If the type of violation committed is not listed, check the “other” box and the type of violation committed.
8. ***Report Details*** – The details of the violation may be included on the violation report. If not enough space, state “see attached report”. Report all the material facts of the case, including statements by the licensee, person in charge of the establishment, employees and other persons involved in the violation. Also include (when possible) the following:
 - Name and title of the person in charge when the violations occurred, such as the bartender or store clerk.
 - Name(s) of the person(s) who committed the violation, and names of any witnesses.
 - Name of the person who was told that a Violation Report would be submitted to MLCC.
9. ***Officers Signature*** – The officer filing the violation report must sign it. Please include the name, address and phone number of your department. (This applies to all officers signing the report).

NOTE: The Commission requires that every violation of MCL 436.1801 (2) and MCL 436.1701 submitted by your department, that is not the result of a decoy operation, must be accompanied by a copy of the appearance ticket issued to the underage person or proof that the underage person was arrested for a criminal charge, or proof of warrant taking enforcement action. The minor’s date-of-birth should be included in the report. It is not necessary to wait for a conviction.

NOTE: The liquor license shall be signed by the licensee, shall be framed under a transparent material and prominently displayed in the licensed premises. The permit document must be posted adjacent to the liquor license pursuant to R 436.1015 (1) (2).

How to Complete Back of Violation Report Form

10. **Name, address and who will testify** – List the names, including police officers addresses and phone numbers of witnesses to be subpoenaed and who will testify at the hearing.

NOTE: Write a brief statement describing the testimony you expect from each witness and officer (please DO NOT WRITE “see contents of this report”).

11. **Location Evidence Held** – If held at the department’s evidence room, then that location is to be reported.

12. **Evidence** - Describe what evidence was obtained at the scene of the violation. Be sure to maintain your chain of evidence, and bring your evidence to the MLCC hearing.

NOTE: Any other information relevant to the case or evidence that supports the charge that a violation of the “Michigan Liquor Control Code, Administrative Rules and Related Laws” occurred should be included in the Violation Report or attached to it. Previous Violation Warning Notices should be noted. Please be as specific as possible.

NOTE: Whenever an MLCC investigator charges a licensee in your jurisdiction with a violation of 436.1801(2) or 436.1701(1), your department will be informed of the minor’s name, address, place of employment and/or educational institution for possible enforcement action by you (except decoys).

NOTE: Many community police departments, as well as the Michigan State Police, use underage persons as decoys who attempt to buy alcoholic beverages at retail establishments to see if proper identification is requested before the sale is completed.

NOTE: The courts have ruled that decoy operations are legal and do not constitute entrapment of the retailer. [See 139 Mich App, page 471, regarding entrapment rulings.]

II. The Liquor Law & Administrative Rules

Because each case is unique, additional information may be required in reporting specific violations of the Michigan Liquor Control Code, Administrative Rules and Related Laws. In this section, excerpts from the code, rules and related laws have been printed that cover most commonly observed violations.

The statute or commission rule references are listed in **bold face type**. The excerpts of the code, rules and related laws are listed thereafter. A copy of “The Michigan Liquor Control Code, Administrative Rules and Related Laws” may be downloaded from the MLCC website at www.michigan.gov/lcc. It may also be obtained from, the Michigan Liquor Control Commission, Enforcement Division, 525 W. Allegan, Lansing, MI 48933, P.O. Box 30005, Lansing, MI 48909, (517) 284-6330.

Additional information may be required for a complete report on specific violations. Other suggestions or information for enforcement officers are preceded by a **NOTE**.

Most of the codes, rules and related laws included in this material apply equally to all retail licensees. However, in the sections identified as *on-premises* (such as bars, restaurants, and taverns) and *off-premises* (such as grocery and convenience stores), the statutes and rules that apply uniquely to those types of licensees are covered separately.

If you have any questions after reviewing this material, please contact one of the MLCC District Enforcement Offices listed at the end of this brochure.

A. Underage Persons (Minors)

Sale or Giving of Alcohol to Minors

Constitution of the State of Michigan of 1963 – Article 4 – Legislative Branch:

Section 40. A person shall not sell or give any alcoholic beverage to any person who has not reached the age of 21 years. A person who has not reached the age of 21 years shall not possess any alcoholic beverage for the purpose of personal consumption.

NOTE: An alcoholic beverage is any beverage containing one-half of one percent or more alcohol by volume.

MCL 436.1109 (4) “Minor” means a person less than 21 years of age.

MCL 436.1801 (2) A retail licensee shall not directly, individually, or by a clerk, agent or servant sell, furnish or give alcoholic liquor to a minor except as otherwise provided in this act...

MCL 436.1801 (7)...In an action alleging the unlawful sale of alcoholic liquor to a minor, proof that the defendant retail licensee or the defendant’s agent or employee demanded and was shown a Michigan driver’s license or official state personal identification card, appearing to be genuine and showing that the minor was at least 21 years of age, shall be a defense to the action.

MCL 436.1701 (1) Alcoholic liquor shall not be sold or furnished to a minor. ...A person who knowingly sells or furnishes alcoholic liquor to a minor or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A retail licensee or a licensee’s clerk, agent or employee who violates this subsection shall be punished in the manner provided for licensees in section 909...Except as otherwise provided in subsection (2), a person who is not a retail licensee or a licensee’s clerk, agent or employee and who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$1,000 and imprisonment for not more than 60 days for a first offense; a fine of not more than \$2,500 and imprisonment for not more than 90 days for a second or subsequent offense, and may be ordered to perform community service. ...A suitable sign which describes this section shall be posted in each room where alcoholic liquors are sold. The signs shall be approved and furnished by the Liquor Control Commission.

MCL 436.1701 (2) A person who is not a retail licensee or a licensee’s clerk, agent or employee and who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 10 years, or a fine of not more than \$5,000 or both, if subsequent consumption of the alcohol by the minor is a direct and substantial cause of that person’s death or an accidental injury that causes that person’s death.

MCL 436.1701 (3) If a violation occurs in an establishment that is licensed by the commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent or employee of a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless the licensee or the clerk, agent or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent or employee of the licensee failed to take immediate corrective action.

MCL 436.1701 (4) If the enforcing agency involved in the violation is the State Police or a local police agency, a licensee shall not be charged with a violation of subsection (1) or Section 801(2) unless all of the following occur, if applicable: (a) Enforcement action is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor and, (b) Enforcement action is taken under this section against the person 21 years of age or older who sold or furnished alcoholic liquor to the minor... (c) Enforcement action under this section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the minor.

MCL 436.1701 (5) ...However, subsection (4) (a) does not apply if the minor against whom enforcement action is taken under Section 703... or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged.

(a) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action.

MCL 436.1701 (6) Any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor under subsection (5)(a) or (b) must have been under the direction of the state police, the commission, or the local police agency and must have been part of the undercover operation.

MCL 436.1701 (7) If a minor participates in an undercover operation in which the minor is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his or her parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

MCL 436.1701 (8) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license, a military identification card, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

Illegal Possession of Alcohol by Minors

MCL 436.1703 (1) A minor shall not purchase or attempt to purchase, consume or attempt to consume, possess or attempt to possess alcoholic liquor, except as provided in this section (9-13). Notwithstanding section 909, a minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions (in Section 703), and is not subject to the penalties prescribed in section 909...

MCL 436.1703 (2) An individual who furnishes fraudulent identification to a minor, or notwithstanding subsection (1) a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

Detaining Minors for ID

MCL 436.1705 A peace officer or law enforcement officer described under section 201 or an inspector of the commission who witnesses a violation of section 701 (1) or 703, or a local ordinance corresponding to section 701 (1) or 703 may stop and detain a person and obtain satisfactory identification, seize illegally possessed alcoholic liquor and issue an appearance ticket as prescribed in section 9c of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c.

NOTE: Persons 18 to 21 years of age are considered legal adults and are entitled to work as bartenders, waiters or waitresses, and to handle, mix, sell, serve and deliver alcoholic beverages as employees of licensed retailers or the Commission.

NOTE: The Michigan Court of Appeals has upheld the right of licensees to refuse admittance of a person under 21 years of age to the premises where liquor is sold. [See 139 Mich App 30 (1984), "Findling v. Dillon's."]

NOTE: The purchase, consumption, possession or the attempt to purchase, consume or possess alcoholic beverages by a minor is a misdemeanor punishable by fines, suspension of the driver's license, participation in community service programs and/or substance abuse prevention diagnosis and treatment services.

NOTE: A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis (CBA). A peace officer may arrest a person based in whole or in part upon the results of a CBA. The results of a preliminary CBA or other acceptable blood alcohol test are admissible in a criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor. Refusal to submit to breathe analysis is a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00, pursuant to MCL 436.1703(7).

NOTE: If the underage person allegedly violating this section is not emancipated and less than 18 years old, the parent or legal guardian of the minor must be notified within 48 hours of the offense pursuant to MCL 436.1703 (8).

NOTE: The MLCC is required by state law to suspend or revoke the license of any licensee who has been found to have violated Section 801(2) on 3 or more separate occasions within a 24-month period pursuant to MCL 436.1903 (1).

Information to be included in the violation report being submitted regarding “Underage Persons (Minors)”

- List names, addresses and BIRTHDATES of all persons under 21 years of age who were observed buying, possessing or consuming alcoholic beverages. Also list names of any persons in the company of the minor who were involved in the sales or furnishing of alcoholic beverages to the underage person, or who witnessed the transaction.
- List documentary evidence used to determine the minor’s correct age, (bona fide driver’s license, Law Enforcement Information Network, or other ID). **Be sure to include the date-of-birth of the minor in the report, place of employment and/or educational institution.**
- If the sale or transaction was not witnessed directly by the officer, attempt to have the underage person (or those accompanying the minor) identify the establishment and the person who sold or furnished the alcoholic beverage. **This should be done as soon as possible after the minor is detained.** If feasible, compare price labels on identical or similar merchandise in the identified establishment. List all of this information on the report.
- If the officer saw the violation, check the young person’s age and documents in the presence of the licensee or employee. Report licensee’s or employee’s remarks.
- Seize the alcoholic beverage purchased or possessed by the underage person, and indicate type and brand. **Be prepared to prove that the beverage the minor was drinking contained alcohol, unless it is in the original, unopened container.** List the articles confiscated to be used as evidence at the hearing. If a minor is observed drinking a beverage from (or poured from) a container clearly marked as an alcoholic beverage, no laboratory analysis is needed. If it is not known whether or not the beverage is alcoholic, (such as “near beer”), lab analysis on a sample should be done.
- Report any attempts by the minor to misrepresent age. Confiscate any false identification used.
- Describe any means used by licensee or employee to inquire as to the age of the purchaser. **Was the buyer asked to show identification? Was ID actually shown?**

B. Intoxicated Persons

Sale of Alcohol to or Loitering by

MCL 436.1801 (2) A retail licensee shall not directly or indirectly, individually or by clerk, agent or servant sell, furnish, or give alcoholic liquor to a person who is visibly intoxicated.

MCL 436.2025 (3) A vendor shall not sell an alcoholic liquor to a person in an intoxicated condition.

NOTE: The critical factor is the outward appearance and conduct of a patron or other intoxicated person, plus corroborating witnesses who can state that a person was visibly intoxicated on the licensed premises at the time of the sale or consumption of alcoholic liquor.

Information to be included in the violation report being submitted regarding “Intoxicated Persons”

- The specific charge should explain if the violation was a sale to an intoxicated person, allowing an intoxicated person to consume, loiter, etc.
- The intoxicated person’s name and address, place of employment and/or educational institution is needed, as well as an explanation of whether the intoxicated person was a customer, an employee of the establishment, the licensee or someone else.
- Describe the person’s actions and appearance that led to the determination of visible intoxication.
- Describe the means of proving that the beverage served was alcoholic liquor; describe sample or evidence seized, container poured from, and results of laboratory analysis. Also, identify who served the intoxicated person. If the charge is loitering, state length of time person was observed (minimum of 10 minutes is suggested), and proof that the licensee or employees did not attempt to obtain medical attention or a ride home, etc., for the person as allowed under MCL 436.1707 (4).
- List the names, addresses, phone number(s), places of employment and/or educational institution of any witnesses who saw the intoxicated person served, consume alcoholic beverages, or be allowed to loiter on the premises without an allowable reason under MCL 436.1707 (4).

C. Hours of Sales

Sunday Sales

MCL 436.2113 (1) Except as provided in subsection (2), (3), or (5), and subject to subsection (6), a licensee enumerated under section 525 may sell at retail, and a person may buy, spirits or mixed spirit drink between the hours of 7 a.m. on Sunday and 2 a.m. on Monday.

MCL 436.2113 (2) Unless the legislative body of a county has prohibited the sale of spirits and mixed spirit drink for consumption on the premises between the hours of 7 a.m. and 12 noon on Sunday or between the hours of 7 a.m. on Sunday and 2 a.m. on Monday...in an establishment licensed under this act in which the gross receipts derived from the sale of food and other goods and services exceed 50% of the gross receipts...

MCL 436.2113 (3) Unless the legislative body of a county has prohibited the sale of spirits and mixed drinks for consumption off the premises between the hours of 7 a.m. and 12 noon on Sunday or between the hours of 7 a.m. on Sunday and 2 a.m. on Monday... in a retail establishment licensed under this act...

MCL 436.2113 (5) A licensee enumerated under this section 525 or any other person shall not sell at retail, and a person shall not knowingly and willfully buy, alcoholic liquor between the hours of 11:59 p.m. on December 24 and 12 noon on December 25. The legislative body of a city, village, or township, by resolution or ordinance, may prohibit the sale of alcoholic liquor on a legal holiday, primary election day, general election day, municipal election day, between the hours of 7 a.m. and 12 noon on Sunday, or between the hours of 7 a.m. on Sunday and 2 a.m. on Monday.

NOTE: The administrative rules are more specific on the hours of operation, but are separate and distinct for on-premises and off-premises licensees. The rules are very lengthy - particularly for on-premises licensees. Therefore, we have condensed these rules into the following table to simplify their understanding and application. For the precise language of the rules, refer to *The Michigan Liquor Control Code, Administrative Rules, and Related Laws* book available from MLCC or online.

Summary of Hours

ALL LICENSEES, (on-premises, off-premises, hotels, clubs, special licensees, etc.) **are prohibited from selling alcoholic beverages between the hours of:**

ANY DAY (Except January 1)

2 a.m. and 7 a.m. of any day (except January 1 as noted below).

SUNDAYS

2 a.m. and 12 noon on Sundays. (The sale of beer, wine, spirits and mixed spirits is allowed between 7 a.m. and 12 noon with a Sunday Sales AM Permit. The sale of spirits is allowed from 12 noon to 12 a.m. on Sunday with a Sunday Sales PM Permit).

HOLIDAYS

11:59 p.m. on December 24 (Christmas Eve) and 12 noon on December 25.*

4 a.m. until 7 a.m. on January 1 (New Year's Day) for on-premises licensees only.*
(Off-premises licensees must stop selling alcoholic beverages at 2 a.m. Jan. 1)

*Sunday rules apply if the dates fall on Sunday.

ON PREMISES

In addition, on-premises licensees may not allow consumption of alcoholic beverages on the premises during the following periods:

2:30 a.m. until 7 a.m. on any day,
11:59 p.m. on December 24 until 12 noon on December 25, or
4:30 a.m. until 7:00 a.m. on January 1.

NOTE: There are three distinct types of violations regarding hours of operations: 1) Sale at other than legal hours; 2) Consumption at other than legal hours and 3) Premises occupied other than legal hours. Sundays and holidays are governed by specific rules.

NOTE: A separate **Sunday Sales Permit (PM)** must be obtained by the licensee from the MLCC to allow the sale of spirits and mixed spirit drinks between 12 noon and 12 midnight on Sundays and 2 a.m. on Monday. The MLCC will not issue the Sunday Sales Permit (AM) or (PM) if the county government has not approved Sunday sales or if the local government has prohibited the sale of spirits or mixed spirit drinks on Sunday.

NOTE: Beer and wine may be sold after noon on Sundays **without a Sunday Sales Permit** unless prohibited by the local government.

NOTE: On-Premises Licensees patrons, guests and others not employed by the on-premises licensee must leave the premises by 2:30 a.m. daily (including Christmas Eve) and by 4:30 a.m. on January 1, if they have a specific purpose permit.

NOTE: Businesses such as restaurants, bowling alleys and ski lodges may be granted permission by MLCC to remain open at other times, but not to sell alcoholic beverages. For example, a restaurant may be allowed to continue serving meals, but not alcoholic drinks, after 2 a.m., if they have a specific purpose permit.

NOTE: Off-Premises Licensees may remain open for business after the legal hour provided that they do not sell alcoholic beverages during the prohibited time periods. For example, after 2 a.m. a party store may continue selling groceries, but not alcoholic beverages.

Information to be included in the violation report being submitted regarding “Hours of Sales”

- Establish the exact time of the violation by checking with radio, telephone, or other source of official time. Note exact time of violation on the report.
- Seize the alcoholic beverage sold or being consumed. List on the report the type and brand of beverage, determine that an open drink contains alcohol by smelling and/or laboratory analysis (not necessary if beverage is in a closed container), and state amount paid for the alcoholic beverage.
- List name, address, place of employment and/or educational institution of person(s) consuming alcoholic beverages, to whom the sale was made, or who was occupying premises after hours. Also list name of person making the sale or serving after hours, and identify each name as a customer, working employee, licensee, or nonworking employee. List name of person in charge of establishment at the time of the violation.
- Note whether the violation is based upon observation or personal purchase by reporting officer.

D. Prohibited Conduct of Licensees, Agents, or Employees

MLCC Rules and Statutes for All Licensees

Rule 436.1011. (6) A licensee, or the clerk, servant, agent, or employee of the licensee, shall not:

- (a) Allow, on the licensed premises, the annoying or molesting of customers or employees by other customers or employees.
- (b) Knowingly allow the licensed premises to be used by any person for the purposes of accosting or soliciting another person to commit prostitution.
- (c) Allow, on the premises, fights, brawls, or the improper use of firearms, knives, or other weapons.
- (d) Allow the sale, possession, or consumption on the licensed premises of any controlled substances that are prohibited by 1978 PA 368, MCL 333.1101 et. seq.
- (e) Allow narcotics paraphernalia to be used, stored, exchanged, or sold on the licensed premises.

MCL 436.1901 (2) A licensee shall not allow unlawful gambling on the licensed premises and shall not allow on the licensed premises any gaming devices prohibited by law.

MCL 436.1901 (5) A licensee shall not sell or furnish alcoholic liquor to a person who maintains, operates, or leases premises that are not licensed by the commission and upon which other persons unlawfully engage in the sale or consumption of alcoholic liquor for consideration as prohibited by section 913.

MCL 436.1901 (6) A retail licensee shall not, on his or her licensed premises, sell, offer for sale, accept, furnish, possess, or allow the consumption of alcoholic liquor that has not been purchased by the retail licensee from the commission, the commission's authorized agent or distributor, an authorized distribution agent certified by order of the commission, or a licensee of the commission authorized to sell that alcoholic liquor to a retail licensee. This subsection does not apply to the consumption of alcoholic liquor in the bedrooms or suites of registered guests of licensed hotels or in the bedrooms or suites of bona fide members of licensed clubs.

NOTE: Simple and aggravated assaults on the premises should be reported under R 436.1011.

NOTE: There are three criteria's needed to establish gambling: **consideration** (cost or physical presence required to participate), **chance** (where luck, not skill, determines the winner), and **prize** (money or other thing of value). For example, football pools are gambling, and the pool sheets are gambling devices.

Information to be included in the violation report being submitted regarding "Prohibited Conduct of Licensees, Agents, or Employees"

- The charge should be specific and should state the exact violation(s) observed, such as fighting by customers, sale of drugs, soliciting for prostitution, etc.
- List names, addresses, places of employment and/or educational institution of all persons involved in the prohibited activity including perpetrators and victims. Specify how each person was involved.
- Note the date and time of the violation(s).
- Indicate any evidence that the licensee or employees knew (or should have known) the violation was occurring. If similar violations have happened before at this establishment, list dates and circumstances of each previous occurrence as well as any prior warnings given to the licensee or staff.
- If the charge is accosting or soliciting, include price asked and nature of the illegal act to be performed.
- If the charge is fighting, note involvement of licensee or employees (either as participants in the improper conduct or any attempt or lack of effort to control the fighting).
- If gambling is observed, seize any illegal gambling devices used and list these items on the report. Also seize all money involved in the gambling, and any proof of gambling.
- Summarize any criminal proceedings that result from the violations. List upcoming court dates and include certified copies of any case dispositions.

E. On-Premises Licensees Only

Sales in Hotel Rooms

MCL 436.2019 (1) Alcoholic liquor may be served by any hotel licensed individually under this act in the room of a bona fide guest.

MCL 436.2019 (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.

Removing Drinks

MCL 436.2021 (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.

Dance-Entertainment-Topless Permits

MCL 436.1916 (1) An on-premise licensee shall not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises, unless the licensee has applied for and been granted an entertainment permit by the commission. Issuance of an entertainment permit under this subsection does not allow topless activity on the licensed premises.

MCL 436.1916 (2) An on-premise licensee shall not allow dancing by customers on the licensed premises unless the licensee has applied for and been granted a dance permit by the Commission. Issuance of a dance permit under this subsection does not allow topless activity on the licensed premises.

MCL 436.1916 (3) An on-premises licensee shall not allow topless activity on the licensed premises unless the licensee has applied for and been granted a topless activity permit by the commission. This section is not intended to prevent a local unit of government from enacting an ordinance prohibiting topless activity or nudity on a licensed premises located within that local unit of government. This subsection applies only to topless activity permits issued by the commission to on-premises licensees located in counties with a population of 95,000 or less.

MCL 436.1916 (5) An on-premises licensee shall not allow the activities allowed by a permit issued under this section at any time other than the legal hours for sale and consumption of alcoholic liquor.

MCL 436.1916 (6) An extended hours permit is required for an on-premises licensee to engage in any of the following activities on the licensed premises at any time other than the legal hours for the sale and consumption of alcoholic liquor:

- (a) Monologues, dialogues, motion pictures, still slides, closed circuit television, contests, other performances for public viewing on the licensed premises, if holding a permit for those activities.
- (b) Patron dancing, if holding a permit for that activity.
- (c) The performance or playing of an orchestra, piano, or other types of musical instruments or singing or the viewing of any publicly broadcast television transmission from a federally licensed station.

Soliciting Drinks

R 436.1417 (1) An on-premise licensee shall not allow a person who is engaged in the serving of food or alcoholic liquor to eat, drink, or mingle with the customers.

R 436.1417 (2) (3) An on-premise licensee, or the clerk, servant, agent or employee of an on-premise licensee, shall not solicit a customer for the purchase of alcoholic liquor (or allow a customer to solicit) for him/herself or for any other person.

2-for-1 Sales/Unlimited Quantity of Alcohol

R 436.1438 (1) An on-premise licensee shall not sell, offer to sell, or advertise the sale of, an unlimited quantity of alcoholic liquor at a specific price.

R 436.1438 (2) No licensee shall sell, offer to sell, or advertise the sale of, 2 or more identical drinks containing alcoholic liquor to a person for that person's consumption for 1 price. When 2 or more identical drinks containing alcoholic liquor are served to a person at 1 time, the price charged for the second and each additional identical drink shall be the same as the price charged for the first drink.

NOTE: The MLCC does not enforce local ordinances. A conviction of a violation of a local ordinance must be obtained before citing the licensee before the commission under rule R 436.1003 (unless state law or MLCC rules are ALSO violated simultaneously).

Information to be included in the violation report being submitted regarding "Prohibited Conduct of On Premise Licensees"

- Specify exactly how a statute or administrative rule was violated.
- Include name(s), address (es), and place of employment and/or educational institution of person violating the Code or rules.
- If a local ordinance is used for the citation, attach a copy of the ordinance and a copy of the conviction to the violation report.
- If electronic reproduction is the basis for the citation, seize the tapes, films, etc. as evidence. Electronic equipment used for reproduction should be seized only if necessary as evidence for the violation hearing.

F. Off Premises Licensees Only

Open Containers, Consumption

R 436.1511 (1) An off-premise licensee who is not licensed as an on-premise licensee shall not have any open containers of alcoholic liquor on the licensed premises. Exceptions are listed in subsections (a), (b) and (c) and under MCL 436.1537 (5), which allows beer and wine sampling with certain restrictions, and under MCL 436.2027 (4) and (5) for spirit sampling with certain restrictions.

R 436.1511 (2) An off-premise licensee who is not licensed as an on-premise licensee shall not allow the consumption of alcoholic liquor on the licensed premises, except for the consumption of alcoholic liquor in sample bottles or cans. Only an off-premise licensee, or the clerk, servant, agent or employee of the off-premise licensee, may consume the contents of a sample bottle or can on the licensed premises.

R 436.1523 (1) An off-premise licensee shall not knowingly allow a person to consume alcoholic liquor on property which is owned, leased, or possessed by the licensee and which is adjacent to the licensed premises.

Delivery of Alcohol to Customers

R 436.1527 (1) A licensee authorized to sell alcoholic liquor for consumption off the premise shall not make a delivery of alcoholic liquor to any person unless that person is 21 years of age.

R 436.1011 (7) A retail licensee shall not sell any alcoholic liquor off the licensed premises except as follows:

(b) An off-premises licensee may deliver a preordered quantity of alcoholic liquor to a customer; however, the licensee shall not make a delivery to a customer on the campus of a 2 or 4 year college or university, unless the customer is licensed by the commission.

(c) An off-premise licensee may provide out-of-doors service if done in accord with the provisions of R 436.1521.

MCL 436.1203 (11) A retailer that holds a specially designated merchant license in this state; an out-of-state retailer that holds its state's substantial equivalent license; or a brewpub, microbrewer, or an out-of-state entity that is the substantial equivalent of a brewpub or microbrewer may deliver beer and wine to the home or other designated location of a consumer in this state if all of the following conditions are met and except as otherwise provided in subsection (12):

- (a) The beer or wine, or both, is delivered by the retailer's brewpubs, or microbrewer's employee and not by an agent or by a third party delivery service.
- (b) The retailer, brewpub, or microbrewer or its employee, who delivers the beer or wine, or both, verifies that the person accepting delivery is at least 21 years of age.
- (c) If the retailer, brewpub, or microbrewer or its employee intends to provide service to consumers, the retailer, brewpub, or microbrewer or its employee providing the service must have received alcohol server training through a server training program approved by the commission.

NOTE: Spirits can only be delivered if the licensee has a catering permit in which they can deliver spirits offsite for a private event as allowed under MCL 436.1547.

NOTE: The delivery person must be at least 18 years of age and have successfully completed an approved server training program.

Information to be included in the violation report being submitted regarding "Prohibited Conduct of Off Premise Licensees"

- Indicate where, when and what type of alcoholic beverage was being consumed or delivered.
- List any physical evidence seized (such as opened or unopened containers, or samples analyzed).

G. Other Requirements For All Licensees

Inspection of Premises

MCL 436.1217 (2) A licensee shall make the licensed premises available for inspection and search by a commission investigator or law enforcement officer empowered to enforce the commission's rules and this act during regular business hours or when the licensed premises are occupied by the licensee or a clerk, servant, agent or employee of the licensee. Evidence of a violation of this act or rules promulgated under this act discovered under this subsection may be seized and used in an administrative or court proceeding.

NOTE: For purposes of the MLCC hearing process, a search warrant is not needed for entry on the premises for enforcement of the "Michigan Liquor Control Code, Administrative Rules and Related Laws" of a licensed liquor establishment during hours when it is open to the public, or when premises are occupied by the licensee or employee. Enforcement officers should, however, consult their local prosecutors regarding the need to obtain a search warrant if criminal prosecution is anticipated.

Illegal Acts, Owner Convicted

R 436.1011 (1) The clerk, servant, agent, or employee of a licensee, shall not engage in an illegal occupation or illegal act on the licensed premises. A certified copy of a conviction is prima facie evidence of a violation.

R 436.1011 (2) A licensee, an officer of a licensed corporation, a stockholder of a privately held corporation, or a member or manager of a limited liability company shall not, on or off its licensed premises, commit any of the following:

(a) A felony.

(b) A crime involving the excessive use of alcoholic liquor.

(c) A crime involving gambling, prostitution, weapons, violence, tax evasion, fraudulent activity, or controlled substances.

(d) A misdemeanor that impairs, or may impair, the ability of the person to operate the licensed business in a safe and competent manner.

(e) Any of the offenses specified in this subrule which results in sentencing after a plea of nolo contendere and for which the licensee is subject to the penalties in section 903 of the act. A certified copy of a conviction is prima facie evidence of a violation.

NOTE: The above rule includes convictions of **any** felony not just a crime related to the retail business or to alcoholic beverages. However, licensees convicted of alcohol related traffic violations may be reported as rule violations as well.

Cooperation with Officers

R 436.1011 (4) A licensee, or clerk, servant, agent or employee of the licensee, shall not hinder or obstruct a law enforcement officer or commission inspector or investigator in the course of making an investigation or inspection of the premises and shall not refuse, fail or neglect to cooperate with a law enforcement officer or a commission inspector or investigator in the performance of his or her duties to enforce the act or commission rules.

NOTE: Due to the seriousness with which this charge is treated by the MLCC, it is advised that R 436.1011 be applied only in those instances where there is direct and deliberate interference with the officer's attempt to obtain evidence or information necessary to enforce the Michigan Liquor Control Code, Administrative Rules and Related Acts.

(Examples would include pushing or blocking movement of an officer outside or inciting customers to threaten an officer.) This charge should not be made when the lack of cooperation occurs as a result of a criminal investigation not related to the Michigan Liquor Control Code, Administrative Rules and Related Acts.

Display of License and Permits

R 436.1015 (1) Licenses issued by the commission shall be signed by the licensee, shall be framed under a transparent material, and shall be prominently displayed in the licensed premises.

R 436.1015 (2) Permits issued by the commission to a licensee shall be framed under a transparent material and shall be prominently displayed in the licensed premises adjacent to the liquor license.

Suspension of License

R 436.1031 (1) A licensee shall not sell, offer for sale, furnish, consume, or allow the consumption of, alcoholic liquor on the licensed premises during the period that the license is suspended by the commission or an individual commissioner.

R 436.1031 (2) During the time of suspension of a license by the commission, the notice of the suspension shall be continuously posted in a conspicuous place on the licensed premises in full view of the public.

R 436.1061 Any permit issued to a licensee by the commission or any privilege granted to a licensee by the commission may be revoked or suspended by the commission or a hearing commissioner, after due notice and proper hearing, if the licensee or the establishment no longer qualifies for the permit or the privilege or if the licensee is found to be in violation of the act or a commission rule which directly pertains to the permit issued or the privilege granted.

H. Contests & Tournaments

Prizes, Alcohol Use

R 436.1019 A licensee shall not participate in or sponsor any contest that requires the use or consumption of alcoholic liquor or features alcoholic liquor as a prize in connection with a contest.

R 436.1435 (1) An on-premise licensee shall not allow contests in which the licensee or any other person gives away anything of value over \$250.00 per day, except upon written order of the commission, and shall not accept or retain anything of value from a person in exchange for sponsoring or promoting a contest or tournament.

R 436.1435 (2) An on-premises licensee shall not allow a contest or tournament of any kind in which the sale, use, or consumption of alcoholic liquor is a necessary part of the contest or tournament or in which alcoholic liquor is given as a prize to the participants of the contest or tournament.

R 436.1435 (3) An on-premises licensee shall not allow a promotion on the licensed premises in which anything of value over \$250.00 per day or any alcoholic liquor is given away without adequate and appropriate consideration, except as provided in this rule or upon written order of the commission. An on-premises licensee shall not accept or retain anything of value from a person in exchange for sponsoring a promotion, except upon written order of the commission.

NOTE: Non-profit unlicensed persons, holders of special (24-hour) licenses, and club licensees ONLY are allowed to offer and award unopened alcoholic liquor valued at less than \$200.00 in a drawing, raffle or as a door prize. Under provisions of **436.2015 (Section 1015)**, these exceptions are permitted provided the liquor is awarded to someone 21 years old or greater, not intoxicated, and the award is made at a lawful fund-raising activity. The alcoholic beverage cannot be consumed on the premises where awarded.

NOTE: An on-premise licensee is required to have an ENTERTAINMENT PERMIT to hold a contest.

I. Special Licenses

Definitions; Non-Profits

MCL 436.1111 (11) "Special license" means a contract between the commission and the special licensee granting authority to that licensee to sell beer, wine, mixed spirit drink, or spirits. The license shall be granted only to such persons and such organization and for such period of time as the commission shall determine so long as the person or organization is able to demonstrate an existence separate from an affiliated umbrella organization. If such an existence is demonstrated, the commission shall not deny a special license solely by the applicant's affiliation with an organization that is also eligible for a special license.

MCL 436.1527 (1) The commission may issue a special license to a nonprofit charitable organization that is exempt from payment of taxes under the internal revenue code for the purpose of allowing the organization to sell, at auction, wine donated to the organization.

MCL 436.1527 (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).

MCL 436.1527 (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.

NOTE: The special license (also called a “24-hour license”) may only be issued to a nonprofit religious, fraternal, civic or patriotic organization, and only 12 days per year to any one organization including its auxiliaries. The same rules and regulations that apply to other licensees also govern special licensees (such as hours of operation, and no sale to minors). Local law enforcement officials must approve the issuance of each special license.

III. General Information

This section includes violations (and penalties for violations) of the Michigan Liquor Control Code, Administrative Rules and Related Laws which (with one exception) are not covered by the MLCC hearings process because they do not involve licensed manufacturers, wholesalers, or retailers of alcoholic beverages. Nevertheless, violators of these sections of the MLCC should be considered liable for prosecution through the courts.

A. Penalties for MLCC Violations

Misdemeanor; Penalties; Legislative Intent

MCL 436.1909 (1) Except as otherwise provided in this act, a person, other than a person required to be licensed under this act, who violates this act is guilty of a misdemeanor.

MCL 436.1909 (2) Except as otherwise provided in this act, a licensee who violates this act, or a rule or regulation promulgated under this act, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00 or both.

MCL 436.1909 (3) A person who performs any act for which a license is required under this act without first obtaining that license or who sells alcoholic liquor in a county that has prohibited the sale of alcoholic liquor under section 1107 is guilty of a felony punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000.00 or both.

MCL 436.1913 (1) A person shall not do either of the following: **(a)** Maintain, operate, lease, or otherwise furnish to any person, any premises or place that is not licensed under this act within which the other person may engage in the drinking of alcoholic liquor for consideration. **(b)** Obtain by way of lease or rental agreement, and furnish or provide to any other person, any premises or place that is not licensed under this act within which any other person may engage in the drinking of alcoholic liquor for consideration.

MCL 436.1913 (2) A person shall not consume alcoholic liquor in a commercial establishment selling food if the commercial establishment is not licensed under this act. A person owning, operating, or leasing a commercial establishment selling food which is not licensed under this act shall not allow the consumption of alcoholic liquor on its premises.

MCL 436.1913 (3) This section shall not apply to any hotel or any licensee under this act.

MCL 436.1913 (5) As used in this section, “consideration” includes any fee, cover charge, ticket purchase, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks, or the purchasing of any service or item, or combination of service and item; or includes the furnishing of glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food.

NOTE: It is suggested that law enforcement officers check with their local prosecutors about enforcement of MCL 436.1913 Sec. 913 of the Michigan Liquor Control Code, Administrative Rules and Related Laws.

B. Law Enforcement Interest

Prohibit Ownership

MCL 436.1523 (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 US, or penal laws of this state, or penal ordinance or resolution of a 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...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 ... 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... 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 license if the organization is otherwise qualified.

MCL 436.1523 (2) As used in this section, “law enforcement personnel” does not include the mayor of a city...

C. Import of Alcoholic Liquor into Michigan

Alcohol Amount Limits

MCL 436.1203 (1) Except as provided in this section and section 301, a sale, delivery, or importation of alcoholic liquor, including alcohol liquor for personal use, shall not be made in this state unless the sale, delivery, or importation is made by the commission, the commission’s authorized agent or distributor, an authorized distribution agent approved by order of the commission, a person licensed by the commission, or by prior written order of the commission.

MCL 436.1203 (3) For purposes of subsection (1), the sale, delivery, or importation of wine, to consumers in this state, by a person who both produces and bottles the wine or wine that is manufactured by a wine maker for another wine maker and that is transacted or caused to be transacted by means of any mail order, internet, telephone, computer, device, or other electronic means, or sold directly to a consumer on the winery premises, shall only be done by a direct shipper...

MCL 436.1203 (6) All spirits for sale, use, storage, or distribution in this state, shall originally be purchased by and imported into the state by the commission, or by prior written authority of the commission.

MCL 436.1203 (7) This section does not apply in the case of an alcoholic liquor brought into this state for personal or household use in an amount permitted by federal law by a person of legal age to purchase alcoholic liquor at the time of reentry into this state from without the territorial limits of the United States if the person has been outside the territorial limits of the United States for more than 48 hours and has not brought alcoholic liquor into the United States during the preceding 30 days.

MCL 436.1203 (8) Notwithstanding the provision of subsection (1) a person who is of legal age to purchase alcoholic liquor may do either of the following in relation to alcoholic liquor that contains less than 21% alcohol by volume: **(a)** Personally transport from another state, once in a 24-hour period, not more than 312 ounces of alcoholic liquor for that person’s personal use. **(b)** Ship or import from another state alcoholic liquor for that person’s personal use so long as that personal importation is done in compliance with subsection (1).

MCL 436.1901 (1) A person, directly or indirectly, himself or herself or by his or her clerk, agent, or employee, shall not manufacture, manufacture for sale, sell, offer for keep for sale, barter, furnish, import, import for sale, transport for hire, transport, or possess any alcoholic liquor unless the person complies with this act.

MCL 436.1901 (4) A person, whether or not a licensee, shall not sell, deliver, or import spirits unless the sale, delivery, or importation is made by the commission, the commission's authorized agent for distributor, an authorized distribution agent certified by order of the commission, a person licensed by the commission, or by prior written order of the commission...

MCL 436.1909 (6) It is the intent of the legislature that the court, in imposing punishment under this section, should discriminate between casual or slight violations and habitual sales of alcoholic liquor or attempts to commercialize violations of this act or the rules or regulations promulgated under this act.

MLCC DISTRICT OFFICES

If you have any questions, need additional information, or want clarification on a subject covered in this brochure, please contact from the list below, the MLCC Enforcement Division District Office closest to your area.

<u>Office</u>	<u>Office Phone Number</u>	<u>Normal work hours at these MLCC Offices are as follows:</u>
Escanaba.....	(906) 786-5553.....	8:00 a.m. to 4:30 p.m. Monday through Friday (except holidays).
Grand Rapids.....	(616) 447-2647.....	8:00 a.m. to 4:30 p.m. Monday through Friday (except holidays).
Lansing.....	(517) 284-6330.....	8:00 a.m. to 5:00 p.m. Monday through Friday (except holidays).
Southfield.....	(313) 456-1170.....	8:00 a.m. to 5:00 p.m. Monday through Friday (except holidays).