

BEER

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

R 436.1601 Definitions.

Rule 1.

The terms defined in R 436.1001 have the same meanings when used in these rules.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1603 Rescinded.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; rescinded 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1605 Equipment.

Rule 5.

A brewer shall possess the necessary equipment for a satisfactory operation, which shall be maintained in good working order and in a sanitary condition.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1607 Agricultural product compliance with law.

Rule 7.

Agricultural products processed by a brewer shall comply with state laws and rules of the Michigan department of agriculture.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1609 Outstate sellers of beer.

Rule 9.

- (1) A person shall be the holder of the required basic permit or be a brewer or outstate seller of beer doing business under an approved brewer's notice issued under the federal alcohol administration act of 1935, 27 U.S.C. §201 et seq., and the regulations thereunder, being 27 C.F.R., part 1, subpart C, and part 25, subpart G, before being issued an outstate seller of beer license. The provisions of 27 C.F.R., part 1, subpart C, and part 25, subpart G, are adopted by reference in these rules. Copies of the adopted provisions may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402. The cost at the time of adoption of these rules is \$23.00. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Commerce, Secondary Complex, 7150 Harris Drive, P.O. Box 30005, Lansing, Michigan 48909, at cost.
- (2) An outstate seller of beer license shall be issued to the following entities pursuant to these rules and the act:
 - (a) A person located in the United States who imports and sells beer made in a foreign country in this state.
 - (b) A manufacturer located outside this state, but in the United States, that manufactures and packages its own beer.
 - (c) A person located in the United States who purchases beer from a manufacturer of beer located outside of this state, but in the United States, if the amount of beer imported into this state by that person is 5,000 barrels or less per calendar year. In addition, a person who is issued an outstate seller of beer license under the provisions of this subdivision shall be designated by the manufacturer of beer as its sole and exclusive sales agent in Michigan for a brand or brands of beer produced by that manufacturer and shall be responsible for the quality of beer shipped into and sold in this state.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; 1989 MR 1, Eff. Jan. 20, 1989; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1611 Labels and advertising.

Rule 11.

- (1) The sale of beer is prohibited in this state unless all of the following provisions are complied with:
 - (a) The beer is packaged, marked, branded, and labeled in accordance with these rules.
 - (b) The beer label truthfully describes the contents of the container in accordance with these rules and the federal alcohol administration act of 1935, 27 U.S.C., §201 et seq., and the regulations thereunder, being 27 C.F.R. part 7, subpart C. The provisions of 27 C.F.R. part 7, subpart C, are adopted by reference in these rules. Copies of the adopted provisions may be obtained either from the Superintendent of Documents, United States Government Printing Office (GPO), Washington, DC 20402, or from the gpo website at <http://bookstore.gpo.gov> at a cost of \$37.00 each as of the time of adoption of these rules, or free of charge from the gpo website at <http://www.gpoaccess.gov/cfr/>. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Licensing and Regulatory Affairs, Secondary Complex, 7150 Harris Drive, P.O. Box 30005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules.
 - (c) The beer has received a registration number from the commission and has been approved for sale by the commission.
- (2) A brewer, outstate seller of beer, or wholesaler responsible for labeling shall furnish proof, upon request, that valid certificates of approval for the label have been obtained from the United States bureau of alcohol, tobacco, and firearms and are unrevoked under the provisions of the federal labeling requirements.
- (3) A retail licensee shall place a removable tap marker or sign on a draft beer dispenser. The cost of a tap marker or sign is subject to commission orders.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989;- 2000 MR 3, Eff. March 20, 2000 ; 2011 MR 20, Eff. Oct. 19, 2011.

R 436.1613 Gifts of beer and consumption on licensed premises.

Rule 13.

- (1) A manufacturer may give away beer only for consumption on the licensed premises.
- (2) A wholesaler shall not give away beer or allow consumption of beer on the licensed premises.
- (3) A tap room maintained by a brewer who is not a microbrewer for dispensing or serving alcoholic beverages shall be closed to the public at 2 a.m. daily and shall not open before 7 a.m. the following day or before noon on Sunday.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC;- 2000 MR 3, Eff. March 20, 2000.

R 436.1615 Sales and transportation by manufacturers; warehouse licensees.

Rule 15.

- (1) A brewer shall sell in Michigan only beer which is produced by it on its licensed premises.
- (2) A brewer or outstate seller of beer shall not have beer produced or placed in containers by another brewer or outstate seller of beer for sale in this state without a prior written order of approval by the commission.

History: 1954 ACS 72, Eff. Aug. 2, 1972; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1617 Sales and shipments by outstate sellers of beer.

Rule 17.

A person shall not sell, ship, import, or deliver beer into this state unless the beer is sold, shipped, imported, or delivered in any of the following ways:

- (a) An outstate seller of beer sells, ships, imports, or delivers to its licensed premises, to the licensed premises of a licensed wholesaler of beer, or to the licensed premises of a licensed warehouseman.

- 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.
- (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.
 - (b) Enforcement action is taken under this section against the person 21 years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the 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.
- (5) If the enforcing agency is the commission and an appearance ticket or civil infraction citation has not been issued, then the commission shall recommend to a local law enforcement agency that enforcement action be taken against a violator of this section or section 703 who is not a licensee. However, subsection (4) does not apply if the minor against whom enforcement action is taken under section 703, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, 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. Subsection (4)(a) does not apply under either of the following circumstances:
- (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.
- (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.
- (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.
- (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.
- (9) The commission shall provide, on an annual basis, a written report to the department of state police as to the number of actions heard by the commission involving violations of this section and section 801(2). The report shall include the disposition of each action and contain figures representing the following categories:
- (a) Decoy operations.
 - (b) Off-premises violations.
 - (c) On-premises violations.
 - (d) Repeat offenses within the 3 years preceding the date of that report.
- (10) As used in this section:
- (a) "Corrective action" means action taken by a licensee or a clerk, agent, or employee of a licensee designed to prevent a minor from further possessing or consuming alcoholic liquor on the licensed premises. Corrective action includes, but is not limited to, contacting a law enforcement agency and ejecting the minor and any other person suspected of aiding and abetting the minor.

- (b) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002 ; Am. 2006, Act 682, Imd. Eff. Jan. 10, 2007; Am. 2010, Act 266, Imd. Eff. Dec. 14, 2010.

436.1703 Purchase, consumption, or possession of alcoholic liquor by minor; attempt; violation; fines; sanctions; furnishing fraudulent identification to minor; screening and assessment; chemical breath analysis; notice to parent, custodian, or guardian; construction of section; exceptions; "any bodily alcohol content" defined.

Sec. 703.

- (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions and is not subject to the penalties prescribed in section 909:
- (a) For the first violation by a fine of not more than \$100.00. A court may order a minor under this subdivision to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of the office of substance abuse services, and may order that minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).
 - (b) For a second violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 30 days but only if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than \$200.00, or both. A court may order a minor under this subdivision to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).
 - (c) For a third or subsequent violation of this subsection, section 33b(1) of former 1933 (Ex Sess) PA 8, or a local ordinance substantially corresponding to this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, by imprisonment for not more than 60 days but only if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, a fine of not more than \$500.00, or both. A court may order a minor under this subdivision to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).
- (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.
- (3) When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of subsection (1) pleads guilty to a violation of subsection (1) or offers a plea of admission in

(17) In a criminal prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(18) As used in this section:

- i. "Any bodily alcohol content" means either of the following:
 1. An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 2. Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.
- ii. "Emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.
- iii. "Health facility or agency" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 353, Eff. Oct. 1, 1999 ;-- Am. 1999, Act 53, Eff. Oct. 1, 1999 ;-- Am. 2004, Act 63, Eff. Sept. 1, 2004 ;-- Am. 2006, Act 443, Imd. Eff. Nov. 27, 2006; --Am. 2012, Act 125, Imd. Eff. June 1, 2012.

436.1705 Power of peace officer or law enforcement officer witnessing violation to stop and detain person; issuance of appearance ticket.

Sec. 705.

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,

BEVERAGE CONTAINERS

Initiated Law of 1976

445.571 Definitions.

Sec. 1.

As used in this act:

- (a) "Beverage" means a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink.
- (b) "Beverage container" means an airtight metal, glass, paper, or plastic container, or a container composed of a combination of these materials, which, at the time of sale, contains 1 gallon or less of a beverage.
- (c) "Empty returnable container" means a beverage container which contains nothing except the residue of its original contents.
- (d) "Returnable container" means a beverage container upon which a deposit of at least 10 cents has been paid, or is required to be paid upon the removal of the container from the sale or consumption area, and for which a refund of at least 10 cents in cash is payable by every dealer or distributor in this state of that beverage in beverage containers, as further provided in section 2.
- (e) "Nonreturnable container" means a beverage container upon which no deposit or a deposit of less than 10 cents has been paid, or is required to be paid upon the removal of the container from the sale or consumption area, or for which no cash refund or a refund of less than 10 cents is payable by a dealer or distributor in this state of that beverage in beverage containers, as further provided in section 2.
- (f) "Person" means an individual, partnership, corporation, association, or other legal entity.
- (g) "Dealer" means a person who sells or offers for sale to consumers within this state a beverage in a beverage container, including an operator of a vending machine containing a beverage in a beverage container.
- (h) "Operator of a vending machine" means equally its owner, the person who refills it, and the owner or lessee of the property upon which it is located.
- (i) "Distributor" means a person who sells beverages in beverage containers to a dealer within this state, and includes a manufacturer who engages in such sales.
- (j) "Manufacturer" means a person who bottles, cans, or otherwise places beverages in beverage containers for sale to distributors, dealers, or consumers.
- (k) "Within this state" means within the exterior limits of the state of Michigan, and includes the territory within these limits owned by or ceded to the United States of America.
- (l) "Commission" means the Michigan liquor control commission.
- (m) "Sale or consumption area" means the premises within the property of the dealer or of the dealer's lessor where the sale is made, within which beverages in returnable containers may be consumed without payment of a deposit, and, upon removing a beverage container from which, the customer is required by the dealer to pay the deposit.
- (n) "Nonrefillable container" means a returnable container which is not intended to be refilled for sale by a manufacturer.
- (o) "Mixed wine drink" means a drink or similar product marketed as a wine cooler and containing less than 7% alcohol by volume, consisting of wine and plain, sparkling, or carbonated water and containing any 1 or more of the following:
 - (i) Nonalcoholic beverages.
 - (ii) Flavoring.
 - (iii) Coloring materials.
 - (iv) Fruit juices.
 - (v) Fruit adjuncts.
 - (vi) Sugar.
 - (vii) Carbon dioxide.
 - (viii) Preservatives.

- (p) "Mixed spirit drink" means a drink containing 10% or less alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives; or any spirits based beverage, regardless of the percent of alcohol by volume, that is manufactured for sale in a metal container.

History: 1976, Initiated Law 1, Eff. Dec. 3, 1978 ;-- Am. 1982, Act 39, Imd. Eff. Mar. 16, 1982 ;-- Am. 1982, Act 266, Imd. Eff. Oct. 5, 1982 ;-- Am. 1986, Act 235, Eff. June 1, 1989 ;-- Am. 1989, Act 93, Imd. Eff. June 20, 1989
Popular Name: Bottle Bill

445.571a "Container composed of a combination of these materials" defined.

Sec. 1a.

As used in section 1, "container composed of a combination of these materials" does not include a container that, when filled, is designed and intended to be frozen and is composed in whole or in part of aluminum and plastic or aluminum and paper in combination, if the aluminum content represents 20% or less of the unfilled container weight and the weight of the container materials represents 5% or less of the total weight of the filled container.

History: Add. 2012, Act 213, Imd. Eff. June 27, 2012

445.572 Nonreturnable containers; prohibitions; means for return and refund; regional redemption centers; acceptance of containers and payment of refunds; indicating refund value and name of State on container; exception; metal containers with detachable parts prohibited; deposit previously refunded; refund upon reuse; maximum daily refund; agreement on deposit; refund by manufacturer.

Sec. 2.

- (1) A dealer within this state shall not sell, offer for sale, or give to a consumer a nonreturnable container or a beverage in a nonreturnable container.
- (2) A dealer who regularly sells beverages for consumption off the dealer's premises shall provide on the premises, or within 100 yards of the premises on which the dealer sells or offers for sale a beverage in a returnable container, a convenient means whereby the containers of any kind, size, and brand sold or offered for sale by the dealer may be returned by, and the deposit refunded in cash to, a person whether or not the person is the original customer of that dealer, and whether or not the container was sold by that dealer.
- (3) Regional centers for redemption of returnable containers may be established, in addition to but not as substitutes for, the means established for refunds of deposits prescribed in subsection (2).
- (4) Except as provided in subsections (5) and (7), a dealer shall accept from a person an empty returnable container of any kind, size, and brand sold or offered for sale by that dealer and pay to that person its full refund value in cash.
- (5) A dealer who does not require a deposit on a returnable container when the contents are consumed in the dealer's sale or consumption area is not required to pay a refund for accepting that empty container.
- (6) Except as provided in subsection (7), a distributor shall accept from a dealer an empty returnable container of any kind, size, and brand sold or offered for sale by that distributor and pay to the dealer its full refund value in cash.
- (7) Each beverage container sold or offered for sale by a dealer within this state shall clearly indicate by embossing or by a stamp, a label, or other method securely affixed to the beverage container, the refund value of the container and the name of this state. A dealer or distributor may, but is not required to, refuse to accept from a person an empty returnable container which does not state on the container the refund value of the container and the name of this state. This subsection does not apply to a refillable container having a refund value of not less than 10 cents, having a brand name permanently marked on it, and having a securely affixed method of indicating that it is a returnable container.
- (8) A dealer within this state shall not sell, offer for sale, or give to consumers a metal beverage container, any part of which becomes detached when opened.

- (9) A person, dealer, distributor, or manufacturer shall not return an empty returnable container to a dealer for a refund of the deposit if a dealer has already refunded the deposit on that returnable container. This subsection does not prohibit a dealer from refunding the deposit on an empty returnable container each time the returnable container is sanitized by the manufacturer and reused as a beverage container.
- (10) A dealer may accept, but is not required to accept, from a person, empty returnable containers for a refund in excess of \$25.00 on any given day.
- (11) A manufacturer licensed by the commission shall not require a distributor licensed by the commission to pay a deposit to the manufacturer on a nonrefillable container. However, a manufacturer licensed by the commission and a distributor licensed by the commission may enter into an agreement

- 436.2207 Legislative findings and declarations; programs to promote tourism and convention business; acquisition of convention facilities; imposition of tax on spirits for consumption off premises; deposit of proceeds; convention facility development fund.

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- 436.2301 Repeal of acts and parts of acts.
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BEVERAGE CONTAINERS

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SPECIAL LICENSES FOR SALE OF ALCOHOLIC LIQUOR AT RETAIL

FOR CONSUMPTION ON PREMISES

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

Sec. 529.

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

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

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

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

Sec. 531.

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

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

- (a) The number of applications received under this subsection.
 - (b) The number of licenses granted and to whom.
 - (c) The number of applications rejected and the reasons they were rejected.
 - (d) The number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.
- (4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 15 resort economic development licenses per year. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:
- (a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.
 - (b) The establishment's primary business is not the sale of alcoholic liquor.
 - (c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,500,000.00.
 - (d) The establishment does not allow or permit casino gambling on the premises.
- (5) In governmental units having a population of 50,000 or less, as determined by the last federal decennial census or as determined under subsection (11), in which the quota of specially designated distributor licenses, as provided by section 533, has been exhausted, the commission may issue not more than a total of 10 additional specially designated distributor licenses per year to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued under this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued under this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of that licensed location. A specially designated distributor license issued under section 533 may be located within 2,640 feet of a specially designated distributor license issued under this subsection.
- (6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued under this subsection shall be issued only for events that are to be held from May 1 to September 30, are artistic in nature, and that are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license is valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license is \$50.00. A special purpose license may be issued only to a corporation that meets all of the following requirements:
- (a) Is a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

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

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

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

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

Sec. 532.

- (1) A club license allows the licensee to sell, for consumption on the licensed premises, beer, wine, mixed spirit drink, and spirits only to bona fide members of the club who have attained the age of 21 years. Except as otherwise provided in subsection (2), the commission shall not issue a license to a club unless the club has been in existence for a period of not less than 2 years before the application for the license.
- (2) Public notice of the intent of the commission to issue the club license shall be given by publication in some newspaper published or in general circulation within the local governmental unit at least 10 days before the issuance of the license. A club that is a chapter of a national organization that has had a license for 10 or more years may apply for a license without a waiting period. Public notice of the commission's intent to renew the club license is not required.
- (3) Except in the case of a club paying a maximum fee, within 10 days after February 1 of each year the club shall file with the commission a list of names and residences of its members and make a similar filing of the name and residence with the commission within 10 days after the election of an additional member. The annual filing shall also include a statement that the club's annual aggregate membership fees or dues and other income, exclusive of the proceeds from the sale of alcoholic liquor, are sufficient to defray the annual rental of its leased or rented premises or, if the premises are

owned by the club, are sufficient to meet the taxes, insurance, repairs, and interest on a mortgage on the premises.

- (4) The affairs and management of the club shall be conducted by a board of directors, executive committee, or similar body chosen by the members. A member, officer, agent, or employee of the club shall not be paid, or directly or indirectly receive in the form of salary or other compensation, profits from the disposition of alcoholic liquor to the club or to the members of the club, beyond the amount of salary fixed and voted at meetings by the members or by its directors or other governing body and as reported by the club to the commission, within 3 months after the meeting.

History: Add. 2001, Act 223, Eff. Mar. 22, 2002

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

Sec. 533.

A retail vendor licensed under this act to sell for consumption on the premises may apply for a license as a specially designated merchant. A specially designated distributor may apply for a license as a specially designated merchant. In cities, incorporated villages, or townships, the commission shall issue only 1 specially designated distributor license for each 3,000 of population, or fraction of 3,000. The quota requirement may be waived at the discretion of the commission if there is no existing specially designated distributor licensee within 2 miles of the applicant, measured along the nearest traffic route.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998

436.1534 Small distiller license.

Sec. 534.

- (1) Upon application in a manner acceptable to the commission and payment of the appropriate license fee, the commission shall issue a small distiller license to a person annually manufacturing in Michigan spirits in an amount not exceeding 60,000 gallons, of all brands combined.
- (2) A small distiller may only sell at retail from the licensed premises either or both of the following:
 - (a) Brands it manufactures on the licensed premises for consumption off the licensed premises, at a price posted by the commission under section 233.
 - (b) Brands it manufactures on the licensed premises for consumption on the licensed premises.
- (3) A small distiller may give samplings or tastings of brands it manufactures on the licensed premises.
- (4) A small distiller shall comply with the server training requirements of section 906.
- (5) This section does not allow the sale of spirits transacted or caused to be transacted by means of any mail order, internet, telephone, computer, device, or other electronic means.

History: Add. 2008, Act 218, Imd. Eff. July 16, 2008

436.1535 Vendor as authorized to do business.

Sec. 535.

A vendor shall be a person authorized to do business under the laws of this state.

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

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

Sec. 537.

- (1) The following classes of vendors may sell alcoholic liquor at retail as provided in this section:
 - (a) Taverns where beer and wine may be sold for consumption on the premises only.
 - (b) Class C license where beer, wine, mixed spirit drink and spirits may be sold for consumption on the premises.

- (c) Clubs where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to bona fide members where consumption is limited to these members and their bona fide guests, who are 21 years of age or older.
- (d) Direct shippers where wine may be sold and shipped directly to the consumer.
- (e) Hotels of class A where beer and wine may be sold for consumption on the premises and in the rooms of bona fide registered guests. Hotels of class B where beer, wine, mixed

