

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

- (4) This act and rules promulgated under this act do not prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises, alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

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

436.2023 Pinball machines.

Sec. 1023.

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

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

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

Sec. 1025.

- (1) A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only.
- (2) Subsection (1) does not prevent any of the following:
- (a) A vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.
 - (b) A person from conducting of any sampling or tasting authorized by section 537 or rule of the commission.
 - (c) A class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from giving away alcoholic liquor to an invitee or guest in connection with a business event or as a part of a room special or promotion for overnight accommodations.
- (3) A vendor shall not sell an alcoholic liquor to a person in an intoxicated condition.
- (4) Evidence of any breathalyzer or blood alcohol test results obtained in a licensed establishment, or on property adjacent to the licensed premises and under the control or ownership of the licensee, shall not be admissible to prove a violation of this section, section 707(1), (2), (3), or (4), or section 801(2). To establish a violation of this section, section 707(1), (2), (3), or (4), or section 801(2), the person's intoxicated condition at the time of the sale or consumption of alcohol must be proven by direct observation by law enforcement or commission enforcement personnel or through other admissible witness statements or corroborating evidence obtained as part of the standard investigation other than breathalyzer or blood alcohol test results.

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

436.2027 Samplings or tastings of alcoholic liquor generally.

Sec. 1027.

- (1) Unless otherwise provided by rule of the commission, a person shall not conduct samplings or tastings of any alcoholic liquor for a commercial purpose except at premises that are licensed by the commission for the sale and consumption of alcoholic liquor on the premises.

- (2) Notwithstanding section 1025(1) or (2), a retailer licensed by the commission for consumption on the premises may allow customers to sample beer, wine, and spirits if the retailer does not charge for the samples provided to customers. Sample serving sizes shall not exceed 3 ounces for beer, 2 ounces for wine, and 1/2 ounce for spirits. A customer shall not be provided more than 2 samples within a 24-hour period per licensed premises.
- (3) This section does not prohibit any of the following:
 - (a) A vendor of spirits, brewer, wine maker, mixed spirit drink manufacturer, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state if the sampling or tasting is conducted pursuant to prior written approval of the commission.
 - (b) An on-premises licensee from giving a sampling or tasting of alcoholic liquor to an employee of the licensee during the legal hours for consumption for the purpose of educating the employee regarding 1 or more types of alcoholic liquor if the employee is at least 21 years of age.
 - (c) A small distiller licensee from giving a sampling or tasting of brands it manufactures on the licensed premises or an off-site tasting facility operated by that small distiller.
 - (d) A micro brewer, brewpub, or on-premises licensee from allowing the sampling and consumption on the licensed premises of beer, wine, mead, honey-based beer, or cider produced by 1 or more home brewers at a meeting of home brewers, or a club composed primarily of home brewers, under the following circumstances:
 - (i) The sampling or consumption is for the purpose of exhibitions or competitions involving home brewers.
 - (ii) The beer, honey-based beer, or cider is served in portions that do not exceed 3 ounces. The wine or mead is served in portions that do not exceed 2 ounces.
 - (iii) The beer, wine, mead, honey-based beer, or cider produced by the home brewer is only consumed by the home brewer, the home brewer's family, a club member, a judge, or a guest speaker and is not sold to members of the general public.
 - (iv) The participants in the sampling or consumption otherwise comply with applicable state and federal law and applicable regulatory provisions of this act and rules adopted by the commission under this act.
 - (v) The participants in the sampling or consumption are not charged for the sampling or consumption of the beer, wine, mead, honey-based beer, or cider.
- (4) A vendor of spirits or a manufacturer may conduct a consumer sampling event on the premises of a holder of a specially designated distributor license upon submission of a completed application to the commission.
- (5) The holder of a consumer sampling event license shall comply with the following:
 - (a) The commission must be notified in writing a minimum of 10 working days before the event with the date, time, and location of the event.
 - (b) The consumer sampling event is limited to 3 events per vendor of spirits or manufacturer per specially designated distributor license per month.
 - (c) The vendor of spirits or manufacturer conducting the consumer sampling event must have a licensed representative present at the specially designated distributor's establishment.
 - (d) Licensed representatives or an authorized representative may distribute merchandise, not to exceed \$100.00 in value, to consumers 21 years of age or older during the event.
 - (e) Participating specially designated distributor licensees do not receive any fee or other valuable consideration for participating in the event.
 - (f) Each consumer is limited to 3 samples, which total no more than 1/3 ounce of spirits per serving.
 - (g) The consumer is not charged for and does not purchase any sample.
 - (h) The alcoholic liquor used in the consumer sampling event is provided by the vendor of spirits or manufacturer, and purchased at the minimum retail selling price fixed by the commission from the specially designated distributor on whose premises the event is located. The vendor of spirits or manufacturer shall remove any unfinished product from the premises at which the event is held upon completion of the event.

- (i) A consumer sampling event shall not be allowed if the sale of alcoholic liquor is otherwise prohibited on the premises at which the event is conducted.
 - (j) Samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming alcoholic liquor.
 - (k) A consumer sampling event may be advertised in any type of media and the advertisements may include the date, time, location, and other information regarding the event.
 - (l) The participating vendor of spirits or manufacturer and specially designated distributor licensees must comply with this act and commission rules.
 - (m) The vendor of spirits or manufacturer must demonstrate that the individual actually conducting the sampling has successfully completed the server training program in the manner provided for in section 906 and rules promulgated by the commission.
- (6) Violation of this section subjects the vendor of spirits or manufacturer to the sanctions and penalties as provided for under this act.
- (7) The commission, by rule or issuance of an order, may further define eligibility for licensure and processes for conducting consumer sampling events.
- (8) A sampling or tasting of any alcoholic liquor in a home or domicile for other than a commercial purpose is not subject to this section.
- (9) Before a micro brewer, brewpub, or on-premises licensee allows an event to be held under subsection (3)(d), the micro brewer, brewpub, or on-premises licensee shall enter into a written agreement with the home brewers or home brewers club stating all of the following:
- (a) The date and time the event will be held.
 - (b) The location of the event.
 - (c) Either of the following:
 - (i) A statement that the micro brewer, brewpub, or on-premises licensee acknowledges that it is not in control of an unregulated alcoholic beverage at its establishment and agrees to assume liability under section 801(3) for the event.
 - (ii) Proof that the home brewers or home brewers club has obtained a bond or liability insurance equal to that required under section 803(1).
- (10) As used in this section:
- (a) "Commercial purpose" means a purpose for which monetary gain or other remuneration could reasonably be expected.
 - (b) "Home brewer" means an individual who manufactures beer, wine, mead, honey-based beer, or cider at his or her dwelling.

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

436.2029 Packaging of nonalcoholic carbonated beverages with spirits.

Sec. 1029.

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

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

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

Sec. 1030.

- (1) A retailer selling beer in a keg shall do all of the following:
 - (a) Attach an identification tag, as prescribed by the commission, on the keg before or at the time of the sale of the beer.
 - (b) Require the purchaser of the beer to complete and sign a receipt as prescribed by the commission under subsection (2) after presentation of a driver license or state of Michigan identification card. If the purchaser of the beer does not possess a driver license or state of Michigan identification card, the retailer shall not sell beer in a keg to the customer.
 - (c) Refuse to return the keg deposit if the identification tag is not attached when returned.
 - (d) Retain a keg deposit as specified in R 436.1629 of the Michigan administrative code.
- (2) The commission shall prescribe the receipt described in subsection (1) for use in the sale of beer by the keg. The receipt shall contain at least a place for the printed name, address, telephone number of the purchaser of the beer, the driver license or state of Michigan identification number of the purchaser, and the beer keg tag number. The purchaser of the beer shall sign the receipt. The retailer shall not sell beer in a keg unless the receipt is completed and accompanied by the signature of the purchaser. A notice containing the information described in subdivisions (a), (b), and (c) shall be printed on the receipt in boldfaced type the same size as the type used on other parts of the receipt. The notice shall state all of the following:
 - (a) That the retailer will not return the keg deposit to the purchaser of the beer if the tag is not attached to the keg upon its return.
 - (b) That the individual signing the receipt does so with the understanding that he or she agrees not to damage the keg and not to remove or alter the attached tag.
 - (c) That the individual signing the receipt does so with the understanding that he or she is subject to liability for serving the beer to any minor.
- (3) The commission shall make identification tags available to retailers selling beer in a keg. The identification tags shall be of such size and materials as to make the identification tags easily removable for the purpose of the cleaning and the reusing of the keg by the owner of the keg. Upon request, the commission shall distribute and make available the tags in numbered lots to retailers selling beer in a keg.
- (4) Retailers selling beer in a keg shall retain a copy of the receipt described in subsection (1) for not less than 30 days after the date the keg was returned and shall make the copy available for inspection by the commission and law enforcement agencies.
- (5) Notwithstanding section 909, a person violating this section under the following circumstances is subject to the applicable sanctions:
 - (a) A retailer who has failed to apply an identification tag on a keg, intentionally failed to complete the receipt as prescribed by the commission, or failed to obtain the purchaser's signature on the receipt is liable for an administrative fine of not more than \$50.00.
 - (b) A person who is not a retailer or a wholesaler licensed by the commission is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, for any of the following:
 - (i) Removing an identification tag from a keg containing beer.
 - (ii) Allowing the removal of an identification tag from a keg of beer purchased by that individual.
 - (iii) Providing false information in the purchase of beer in a keg.
- (6) This section requires the attaching of a tag to a beer keg sold at retail for use by a member of the general public and does not require a retailer or licensee to attach a tag to a keg that is being used for on-premises consumption only, being stored, being transported, or being used by a caterer providing the catering service.

- (7) This section does not prohibit a commission agent or a law enforcement agent from returning an untagged keg and receiving the keg deposit on behalf of the commission or the law enforcement agency.
- (8) As used in this section, "keg" means any brewery-sealed individual container having liquid capacity of 5 gallons or more.

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

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

Sec. 1031.

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

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436.1511 Class "C" or class "B" hotel license for hotel located within Mackinac Island state park; class "C" license for certain concessionaire; license for sale of alcoholic liquor at Presque Isle harbor marina; nontransferability of license.

Sec. 511.

- (1) Notwithstanding section 501, the commission may issue the following licenses without regard to the quota provisions of section 531:
 - (a) With the approval of the Mackinac Island state park commission, not more than 1 class C or class B hotel license for each hotel which is located within the Mackinac Island state park and is owned by the Mackinac Island state park commission and not more than 1 class C license to a concessionaire of the Mackinac Island state park commission who operates a restaurant located within Fort Mackinac.
 - (b) A license for the sale of alcoholic liquor for consumption on or off the premises at the Presque Isle harbor marina.
- (2) A license issued under this section is not transferable as to ownership or location.

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

436.1513 Licenses; issuance to governing board of college or university; restrictions and prohibition; sale of alcoholic liquor on hotel premises located on land owned by central Michigan university or Wayne state university; conditions; nontransferability; fee; "college," "university," and "conference center" defined.

Sec. 513.

- (1) The commission may issue to the governing board of a college or university, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption on the premises of a conference center operated by the governing board. Licenses granted under this subsection may be used only for the sale of alcoholic liquor at regularly scheduled conference center activities. The sale of alcoholic liquor to unscheduled patrons or at unscheduled events is prohibited under this subsection.
- (2) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of a hotel located on land owned by central Michigan university if both of the following circumstances exist:
 - (a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the hotel building and its fixtures.
 - (b) The hotel and land are located within an industrial, research, or commercial development park established by the governing board of central Michigan university.
- (3) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the licensed premises of a restaurant located on land owned by Wayne state university if both of the following circumstances exist:
 - (a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the licensed premises for the operation of a restaurant.
 - (b) The restaurant is located within an area designated for industrial, research, or commercial development by the governing board of Wayne state university.
- (4) Licenses issued pursuant to this section are nontransferable, and the licensee shall pay the fee required under section 525.
- (5) As used in this section:
 - (a) "College" or "university" means a 2-year or 4-year state supported institution of higher education.
 - (b) "Conference center" means a building or portion of a building, other than a student residence hall or student center, which has meeting rooms, banquet areas, social halls, overnight

accommodations, and related facilities for special activities scheduled by the college or university, which in the judgment of the commission, has been regularly used for conferences and lodging of guests. The convocation center and the corporate education center at eastern Michigan university, the Kirkhof and Eberhard centers at Grand Valley state university, the Bernhard center at western Michigan university, the Wadsworth center at Michigan technological university, the West complex at Saginaw Valley state university, the conference center at Big Rapids, the applied technology center at Grand Rapids and the FSU-GR conference center of Ferris state university, Grand Rapids junior college, the Waterman campus center at Schoolcraft college, the Mendel center at Lake Michigan community college, the McGregor memorial conference center at Wayne state university, the Michigan state university management educational center, the Superior dome at northern Michigan university, the Walker Cisler center at Lake Superior state university, the Marie Prahll college center at Mott community college, the John T. Parsons and Frank L. Stulen Michigan technical education center, the Gerald and Frances Oleson center, the Dennon museum center, and the Great Lakes campus at northwestern Michigan college, the farmhouse at Delta college, the Oakland community college culinary studies institute, and the performing arts and cultural center complex at Macomb community college are considered conference centers for the purposes of this act.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 400, Imd. Eff. Dec. 17, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998 ;-- Am. 2000, Act 344, Imd. Eff. Dec. 27, 2000 ;-- Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002 ;-- Am. 2004, Act 141, Imd. Eff. June 15, 2004 ;-- Am. 2007, Act 11, Imd. Eff. May 24, 2007 ;-- Am. 2009, Act 48, Imd. Eff. June 18, 2009

436.1513a Sale of alcoholic liquor for consumption at community college's or university's culinary or hospitality program's location; license; prohibition; submission of documents; cancellation of license; use; license to private entity; catering permit; definitions.

Sec. 513a.

- (1) Beginning October 1, 2011, the commission may issue to the governing board of a community college or university that is accredited by a nationally recognized accrediting agency as determined by the United States secretary of education under 20 USC 1099b and that operates an accredited culinary or hospitality program, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption at the community college's or university's culinary or hospitality program's location for activities that further the community college's or university's community or academic mission.
- (2) Except as otherwise provided in subsection (7), the sale of alcoholic liquor to patrons at a location other than the community college's or university's culinary or hospitality program's location or at activities that do not further the community college's or university's community or academic mission, including, but not limited to, public and private gatherings or meetings that do not have a direct correlation to the community college's or university's community or academic mission, is prohibited under this section.
- (3) To obtain a license under this section, a community college or university shall submit both of the following to the commission:
 - (a) Documentation verifying that the community college or university is accredited by a nationally recognized accrediting agency as determined by the United States secretary of education under 20 USC 1099b.
 - (b) Either of the following:
 - (i) Documentation verifying that the community college's or university's culinary or hospitality program is accredited by a regionally recognized accrediting body.
 - (ii) Within 180 days after the effective date of the amendatory act that added this section, a copy of the community college's or university's application to a regionally recognized accrediting body for accreditation of its culinary or hospitality program.
- (4) The commission shall cancel a license issued under this section if, within 2 years of applying for a license under this section, the community college's or university's culinary or hospitality program is not accredited by a regionally recognized accrediting body, unless the community college or university demonstrates good cause for an extension of time to obtain accreditation by a regionally recognized accrediting body.

- (5) Except as otherwise provided in subsection (7), a liquor license issued under this section shall be granted and registered to the community college's or university's culinary or hospitality program's location.
- (6) Except as otherwise provided in subsection (7), a liquor license issued under this section shall be used by the community college or university and not by a private entity.
- (7) Subject to section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of an outdoor stadium located on land owned by Lake Michigan college and leased to a private entity. The prohibition in section 531(7) on licenses at outdoor stadiums does not apply to a license issued under this subsection.
- (8) A community college or university that holds a liquor license under this section shall not obtain a catering permit under section 547.
- (9) As used in this section:
 - (a) "Community college" means a community college established under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195.
 - (b) "University" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

History: Add. 2011, Act 249, Imd. Eff. Dec. 8, 2011

436.1514 Hotel and conference center owned and operated by university; issuance of class B hotel license; conditions; limitation; "hospitality program" defined.

Sec. 514.

- (1) Notwithstanding section 501 and subject to the quota system under this act, the commission may issue a class B hotel license to a hotel and conference center owned and operated by a university meeting at least all of the following:
 - (a) Contains a hotel with at least 150 guest rooms.
 - (b) Has a restaurant seating at least 125 guests that serves a full-menu breakfast, lunch, and dinner.
 - (c) Has over 30,000 square feet of flexible meeting space.
 - (d) Is open year-round to provide services to the public and to serve the mission of the hospitality program.
 - (e) Has a hospitality program providing at least all of the following at the site of the hotel and conference center as part of that program:
 - (i) Student education classrooms.
 - (ii) A working hospitality laboratory setting.
 - (iii) Utilization of rotational interns each semester or equivalent time period.
- (2) In public areas of the hotel and conference center, the sale and consumption of alcoholic liquor is limited to table service only unless the public areas are reserved for private functions.
- (3) As used in this section, "hospitality program" means a course of academic study that, at a minimum, is a nationally accredited program at baccalaureate and graduate levels in the hospitality business that requires at least 120 semester credits or the equivalent for completion of the baccalaureate degree and that has a teaching and research staff predominated by individuals with at least doctoral degrees.

History: Add. 2000, Act 166, Imd. Eff. June 20, 2000

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

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

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

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

Sec. 411.

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

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

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

Sec. 413.

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

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

CHAPTER 5

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

Sec. 501.

- (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 525 and the filing of the bonds required in section 801 or liability insurance as provided in section 803. The commission shall provide a notification of the ability of the purchaser or transferee to obtain a tax clearance certificate, in the manner provided for in subsection (6). Subject to section 906(2) and (3), the commission shall not issue a new on premises license or transfer more than 50% interest in an existing on premises license unless the applicant or transferee offers proof acceptable to the commission that he or she has employed or has present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program as further described in section 906. The commission may consider an individual enrolled and actively participating in a server training program as having successfully completed the program for such time as the individual is participating. The commission may allow an applicant or a conditionally approved licensee at least 180 days, or more upon a showing of good cause, to meet the minimum personnel training requirements of this subsection. The commission may suspend the license of a conditionally approved licensee for failure to comply with this subsection. The commission may waive the server training requirements of this subsection on the basis of either of the following circumstances:
 - (a) The licensee's responsible operating experience or training.
 - (b) The person's demonstration of an acceptable level of responsible operation either as a licensee during the preceding 3 years or as a manager with substantial experience in serving alcoholic liquor.
- (2) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act shall be construed as a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 750,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body shall not be required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local legislative body after due notice and proper hearing by the local

- (16) The commission shall not require a class A hotel or a class B hotel licensed pursuant to 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

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

spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

- (f) Specially designated merchants, where beer and wine may be sold for consumption off the premises only.
 - (g) Specially designated distributors where spirits and mixed spirit drink may be sold for consumption off the premises only.
 - (h) Special licenses where beer and wine or beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only.
 - (i) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.
 - (j) Brewpubs where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:
 - (i) Class C.
 - (ii) Tavern.
 - (iii) Class A hotel.
 - (iv) Class B hotel.
 - (k) Micro brewers and brewers where beer produced by the micro brewer or brewer may be sold to a consumer for consumption on or off the brewery premises.
 - (l) Class G-1 license where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.
 - (m) Class G-2 license where beer and wine may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.
 - (n) Motorsports event license where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.
 - (o) Wine maker where wine may be sold by direct shipment, at retail on the licensed premises, and as provided for in subsections (2) and (3).
 - (p) Small distiller selling not more than 60,000 gallons of spirits manufactured by that licensee to the consumer at retail for consumption on or off the licensed premises in the manner provided for in section 534.
 - (q) Nonpublic continuing care retirement center license, where beer, wine, mixed spirit drink, mixed wine drink, and spirits may be sold at retail and served on the licensed premises to residents and bona fide guests accompanying the resident for consumption only on the licensed premises.
- (2) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.
- (3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker on the premises where the wine maker is licensed to manufacture wine. The wine maker may charge for the samples.
- (4) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:
- (a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements.
 - (b) Payment of a \$100.00 fee per location is made to the commission.
 - (c) The wine tasting locations are considered licensed premises, and the wine maker may include a charge for the samples.
 - (d) The wine tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.
 - (e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

- (5) Notwithstanding section 1025(1), an outstate seller of beer, an outstate seller of wine, a wine maker, a brewer, a micro brewer, or a specially designated merchant, or an agent of any of those persons, who does not hold a license allowing the consumption of alcoholic liquor on the premises at the same licensed address, may conduct beer and wine tastings on the licensed premises of a specially designated merchant under the following conditions:
 - (a) A customer is not charged for the tasting of beer or wine.
 - (b) The tasting samples provided to a customer do not exceed 3 servings at up to 3 ounces per serving of beer or 3 servings at up to 2 ounces of wine. A customer shall not be provided more than a total of 3 samples of beer or wine within a 24-hour period per licensed premises.
 - (c) The specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer has first obtained an annual beer and wine tasting permit approved by the commission.
 - (d) The commission is notified, in writing, a minimum of 10 working days before the event, regarding the date, time, and location of the event.
- (6) During the time a beer or wine tasting is conducted under subsection (5), a specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer, or its agent or employee who has successfully completed a server training program as provided for in section 906, shall devote full time to the beer and wine tasting activity and shall perform no other duties, including the sale of alcoholic liquor for consumption off the licensed premises. Beer and wine used for the tasting must come from the specially designated merchant's inventory, and all open bottles must be removed from the premises on the same business day or resealed and stored in a locked, separate storage compartment on the licensed premises when not being used for the activities allowed by the permit.
- (7) A wholesaler shall not conduct or participate in beer and wine tastings allowed under a permit issued under subsection (5).
- (8) A beer and wine tasting under subsection (5) may only be conducted during the legal hours for the sale of alcoholic liquor by the licensee.
- (9) A brandy manufacturer or small distiller, with the prior written approval of the commission, may conduct tastings of brandy and spirits made by that brandy manufacturer or small distiller and may sell the brandy and spirits made by that brandy manufacturer or small distiller for consumption off the licensed premises at a location other than the licensed premises where the brandy manufacturer or small distiller is licensed to manufacture brandy or spirits under the following conditions:
 - (a) The premises upon which the brandy and spirits tastings occur conform to local and state sanitation requirements.
 - (b) Payment of a \$100.00 fee per location is made to the commission.
 - (c) The brandy and spirits tasting locations are considered licensed premises.
 - (d) The brandy and spirits tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.
 - (e) The premises and the license comply with and are subject to all applicable rules promulgated by the commission.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2001, Act 223, Eff. Mar. 22, 2002 ;-- Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005 ;-- Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005 ;-- Am. 2008, Act 218, Imd. Eff. July 16, 2008; Am. 2010, Act 213, Eff. November 17, 2010; Am. 2011, Act. 298, Imd. Eff. Dec. 22, 2011

436.1539 Marina as specially designated merchant or distributor; license; conditions.

Sec. 539.

A marina that is situated on 1 of the Great Lakes, on that part of an inland waterway or tributary connected to and navigable to 1 of the Great Lakes, or on a Great Lakes connecting waterway may be issued a license as a specially designated merchant or specially designated distributor, notwithstanding the fact that the marina maintains motor vehicle fuel pumps on or adjacent to the licensed premises, or maintains a financial interest in any motor vehicle fuel pumps if both of the following conditions are met:

- (a) The marina's primary business is the sale of boats or the provision of services and supplies to recreational power cruisers and sailboats of the type that typically travel on the Great Lakes.

- (4) A wholesale licensee or an applicant for a wholesale license, if a corporation, shall be licensed only if the corporation is authorized to do business under the laws of this state and if all stockholders of the corporation have resided in this state for not less than 1 year immediately preceding the date of issuance of the license. A corporation that holds a wholesale license shall not issue shares of the corporation's stock to a person who has not resided in this state for at least 1 year immediately preceding the date on which the corporate stock was acquired by the person.

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

436.1603 Interest in business of other vendor prohibited; placing certain stock in portfolio under arrangement of trust agreement; issuance and sale of participating shares within state prohibited; sale of brandy by manufacturer; conditions; sale by small distiller; interest of brewpub in other locations; interest in business of other wholesaler prohibited; delivery of wine by wine maker to retail licensees prohibited; definitions.

Sec. 603.

- (1) Except as provided in subsections (6) to (14) and section 605, a supplier, warehouse, or wholesaler shall not have any direct or indirect financial interest in the establishment, maintenance, operation, or promotion of the business of any other vendor.
- (2) Except as provided in subsections (6) to (14) and section 605, a supplier, warehouse, or wholesaler or a stockholder of a supplier, warehouse, or wholesaler shall not have any direct or indirect interest by ownership in fee, leasehold, mortgage, or otherwise in the establishment, maintenance, operation, or promotion of the business of any other vendor.
- (3) Except as provided in subsections (6) to (14) and section 605, a supplier, warehouse, or wholesaler shall not have any direct or indirect interest by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.
- (4) Except as provided in subsections (6) to (14) and section 605, a person shall not buy the stocks of a supplier, warehouse, or wholesaler and place the stock in any portfolio under an arrangement, written trust agreement, or form of investment trust agreement, issue participating shares based upon the portfolio, trust agreement, or investment trust agreement, and sell the participating shares within this state.
- (5) The commission may approve a brandy manufacturer or small distiller to sell brandy and spirits made by that brandy manufacturer or small distiller in a restaurant for consumption on or off the premises if the restaurant is owned by the brandy manufacturer or small distiller or operated by another person under an agreement approved by the commission and is located on premises where the brandy manufacturer or small distiller is licensed. Brandy and spirits sold for consumption off the premises under this subsection shall be sold at the uniform price established by the commission.
- (6) The commission shall allow a small distiller to sell brands of spirits it manufactures for consumption on the licensed premises at that distillery.
- (7) A brewpub may have an interest in up to 2 other brewpubs if the combined production of all the locations in which the brewpub has an interest does not exceed 5,000 barrels of beer per calendar year.
- (8) This section does not prohibit a supplier from having any direct or indirect interest in any other supplier.
- (9) The commission may approve the following under R 436.1023(3) of the Michigan administrative code, subject to the written approval of the United States department of treasury, bureau of alcohol and tobacco tax and trade:

- (a) A wine maker participating with 1 or more wine makers in an alternating proprietor operation in accordance with 27 CFR 24.136.
 - (b) A brewer participating with 1 or more brewers in an alternating proprietor operation in accordance with 27 CFR 25.52.
- (10) A manufacturer shall not have any direct or indirect interest in a wholesaler.
- (11) A wine maker shall not collectively deliver wine, with any other wine maker, to retail licensees.
- (12) Except in the case of a licensed warehouse, all licensees in this state shall be separated into 3 distinct and independent tiers composed of the following:
- (a) Supplier tier, comprising suppliers.
 - (b) Wholesaler tier, comprising wholesalers.
 - (c) Retailer tier, comprising retailers.
- (13) Except as otherwise provided in subsection (14), beginning April 30, 2011, the commission shall not allow any of the following:
- (a) A retailer to hold, directly or indirectly, a license in the wholesaler or supplier tier.
 - (b) A wholesaler to hold, directly or indirectly, a license in the retailer or supplier tier.
 - (c) A supplier to hold, directly or indirectly, a license in the wholesaler or retailer tier.
- (14) Subsection (13) shall not be interpreted in a manner that would prohibit a class C, tavern, class A hotel, or class B hotel licensee from receiving a brewpub license or that would prohibit a micro brewer or brewer from having an on-site restaurant.
- (15) As used in this section:
- (a) "Manufacturer" means, notwithstanding section 109(1), a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, distiller, small distiller, brandy manufacturer, mixed spirit drink manufacturer, direct shipper, or a person licensed by the commission to perform substantially similar functions.
 - (b) "Supplier" means a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits or a person licensed by the commission to perform substantially similar functions but does not include a master distributor.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2008, Act 218, Imd. Eff. July 16, 2008 ;-- Am. 2009, Act 2, Imd. Eff. Mar. 27, 2009; Am. 2010, Act 213, Eff. November 17, 2010; Am. 2011, Act. 298, Imd. Eff. Dec. 22, 2011

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Sec. 605.

- (1) A brewer, or the parent company, a subsidiary or an affiliate of a brewer which parent company, subsidiary, or affiliate is located in this state may acquire, develop, sell, lease, finance, maintain, operate, or promote real property occupied or to be occupied by another vendor, except a wholesaler, if all of the following exist:
- (a) The brewer has received written approval of the commission before entering into any arrangement or contract between the parties regarding the real property.
 - (b) The legislative body of the city, village, or township where the property is located certifies to the commission that the real property is in an urban, commercial, or community redevelopment area and is designated as such by a state or federal agency.
 - (c) Any arrangement or contract entered into between the brewer, its parent company, subsidiary, or affiliate and another vendor shall not directly or indirectly influence or control the brand of alcoholic liquor sold or to be sold by the vendor and shall only be concerned with real property.

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