

- (c) Armories, air bases, and naval installations owned or leased by the state or provided by the federal government by either lease, license, or use permit and used by outside parties of a nonmilitary or nonstate governmental nature.
- (d) Land which was under lease to a person licensed in the calendar year 1954 and on which a licensed establishment is presently located.
- (e) Land located in the Upper Peninsula which was owned or leased by the federal government, used as a military installation, and transferred to this state before December 31, 2000 pursuant to 1978 PA 151, MCL 3.551 to 3.561, or 1993 PA 159, MCL 3.571 to 3.580. The commission may issue 2 additional licenses pursuant to this subdivision for establishments located on this state land without regard to or without the effect upon the quota provisions of section 531 in the local governmental unit in which the license will be issued subject to the recommendation of the authority established pursuant to those acts. A person issued a license pursuant to this subdivision may renew the license and transfer ownership of the license, without regard to or without the effect upon the quota provisions of section 531, if title to the property covered by the license is transferred from the state to another person or to another governmental unit. The commission shall not transfer a license issued under this subdivision to another location. Before the issuance of a license, and annually thereafter before the issuance of a license for a new licensing period, the applicant for a license shall submit to the commission a certificate from the department or agency charged with control of the land setting forth that the issuance of a license is not incompatible with the objects and purposes entrusted to that department or agency under the law establishing control of the land in the department or agency. This subsection does not prohibit the issuance of a license pursuant to section 513.
- (f) Property owned by the Michigan state waterways commission and leased to persons under part 791 (harbor development) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.79101 to 324.79118. A license may be issued under this subdivision to a lessee without regard to the quota provisions of section 531, but the license shall not be issued without the written approval of the Michigan state waterways commission or its designee. A license issued under this subdivision shall not be transferable as to ownership or location, and, if the licensee goes out of business, the license shall be surrendered to the commission.
- (g) Property owned by the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1979 PA 300, MCL 38.1301 to 38.1437; the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

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

436.1521 Limitation on tavern or class C licenses; renewal of license; conditions; revocation; transfer of license; issuance of certain licenses prohibited; "development district defined.

Sec. 521.

- (1) Beginning on the effective date of the amendatory act that added section 521a, the commission shall not issue any tavern or class C licenses under this section. However, those licenses issued under this section before the effective date of the amendatory act that added section 521a remain valid and may be renewed if in compliance with this section. The commission shall renew licenses issued under this section before the effective date of the amendatory act that added section 521a for persons who operate businesses that meet all of the following conditions:
 - (a) The business is a full service restaurant, is open to the public, and prepares food on the premises.
 - (b) The business is open for food service not less than 10 hours per day, 5 days a week.

- (c) At least 50% of the gross receipts of the business are derived from the sale of food for consumption on the premises. For purposes of this subdivision, food does not include beer and wine.
 - (d) The business has dining facilities to seat not less than 25 persons.
 - (e) The business is located in a development district with a population of not more than 50,000, in which the district, after a public hearing, has found that the issuance of the license would prevent further deterioration within the development district and promote economic growth within the development district.
- (2) If in any licensing year the sale of food for consumption on the premises of the business represents less than 50% of the gross receipts for the business, the commission, after due notice and proper hearing, shall revoke the license issued under subsection (1).
 - (3) A license issued under this section is transferable as to ownership or location only within the development district.
 - (4) The commission shall not issue a specially designated merchant license, specially designated distributor license, or any other license that allows the sale of alcoholic liquor for consumption off the premises in conjunction with a license issued under this section or at the premises for which a license has been issued under this section.
 - (5) As used in this section, "development district" means any of the following:
 - (a) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.
 - (b) An authority district established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.
 - (c) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.
 - (d) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990m, before January 1, 1996.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 282, Imd. Eff. July 27, 1998 ;-- Am. 2006, Act 502, Imd. Eff. Dec. 29, 2006

436.1521a Public on-premises licenses; issuance to businesses; conditions; commercial investment in redevelopment project area; time period; total investment; number of licenses; requirements; fees; transfer of license prohibited; attempt to secure on-premise escrowed license or quota license; definitions.

Sec. 521a.

- (1) In order to allow cities, villages, and townships to enhance the quality of life for their residents and visitors to their communities, the commission may issue public on-premises licenses in addition to those quota licenses allowed in cities, villages, and townships under section 531(1). The licenses under this section shall be issued to businesses that meet either of the following conditions:
 - (a) Are located in a redevelopment project area meeting the criteria described in subsections (3) and (4) and are engaged in activities determined by the commission to be related to dining, entertainment, or recreation.
 - (b) Are located in a development district or area that is any of the following:
 - (i) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.
 - (ii) A development area established under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.
 - (iii) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.
 - (iv) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990n.
- (2) The commission shall not issue a license under subsection (1)(a) unless the applicant fulfills the following in relation to the licensed premises:
 - (a) Provides the activity described in subsection (1)(a) not less than 5 days per week.
 - (b) Is open to the public not less than 10 hours per day, 5 days per week.

- (c) Presents verification of redevelopment project area status to the commission that includes the following:
 - (i) A resolution of the governing body of the city, village, or township establishing its status as a redevelopment project area.
 - (ii) An affidavit from the assessor, as certified by the clerk of the city, village, or township, stating the total amount of investment in real and personal property within the redevelopment project area of the city, village, or township during the preceding 3 years.
 - (iii) An affidavit from the assessor, as certified by the clerk of the city, village, or township, separately stating the amount of investment money expended for manufacturing, industrial, residential, and commercial development within the redevelopment project area of the city, village, or township during the preceding 3 years.
- (3) Relative to the licenses issued under subsection (1)(a), the amount of commercial investment in the redevelopment project area within the city, village, or township shall constitute not less than 25% of the total investment in real and personal property in that redevelopment project area as evidenced by an affidavit of the assessor of the city, village, or township. This subsection does not prevent the city, village, or township from realigning the redevelopment project area in the presentment of verification provided for under subsection (2)(c).
- (4) In relation to a license issued under subsection (1)(a), an applicant shall be located in a city, village, or township that meets at least 1 of the investment requirements of subsection (1)(a) during the 3 years preceding the submission of its application. The total investment in real and personal property in the redevelopment project area within the city, village, or township over the appropriate time period described in this subsection shall be at least 1 of the following:
 - (a) Not less than \$50,000,000.00 in cities, villages, or townships having a population of 50,000 or more.
 - (b) Not less than an amount reflecting \$1,000,000.00 per 1,000 people in cities, villages, or townships having a population of less than 50,000.
- (5) The commission may issue a license under subsection (1)(a) for each monetary threshold described in subsection (4)(a) and (b), and, after reaching the initial threshold, 1 additional license for each major fraction thereof above that original threshold.
- (6) The following apply to a license issued under subsection (1)(b):
 - (a) The amount expended for the rehabilitation or restoration of the building that housed the licensed premises shall be not less than \$75,000.00 over a period of the preceding 5 years or a commitment for a capital investment of at least that amount in the building that houses the licensed premises, that must be expended before the issuance of the license.
 - (b) The total amount of public and private investment in real and personal property within the development district or area shall not be less than \$200,000.00 over a period of the preceding 5 years as verified to the commission by means of an affidavit from the assessor, as certified by the clerk of the city, village, or township.
 - (c) The licensed business is engaged in dining, entertainment, or recreation, is open to the general public, and has a seating capacity of not less than 25 persons.
- (7) The commission may issue 1 license for each monetary threshold described in subsection (6)(b), or for each major fraction thereof. The initial enhanced license fee for a license issued under this section is \$20,000.00.
- (8) The commission shall not transfer a license issued under this section to another location. If the

licensee goes out of business, the licensee shall surrender the license to the commission. The governing body of the city, village, or township may approve another applicant within a redevelopment project area or development district or area to replace a licensee who has surrendered the license issued under this section provided the new applicant's business meets the requirements of this section but without regard to subsections (2)(c), (3), and (4) or subsection (6)(b).

- (9) The individual signing the application for the license shall state and demonstrate that the applicant attempted to secure an appropriate on-premises escrowed license or quota license issued under section 531 and that, to the best of his or her knowledge, an on-premises escrowed license or quota license issued under section 531 is not readily available within the county in which the applicant proposes to operate.
- (10) 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 based on where the applicant will be located, 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: Add. 2006, Act 501, Imd. Eff. Dec. 29, 2006 ;-- Am. 2010, Act 369, Imd. Eff. Dec. 22, 2010 ;-- Am. 2014, Act 270, Imd. Eff. July 2, 2014

436.1522 Banquet facility permits.

Sec. 522.

- (1) The commission may issue 1 banquet facility permit to an on-premise licensee, as an extension of that on-premise license, for the serving of alcoholic liquor only on the permitted premises. This section does not limit the number of banquet facility permits that the commission may issue within any local unit of government. The banquet facility shall be used only for scheduled functions and events, shall not have regular meal service, and shall not be generally open to the public. The applicant shall provide documentation that demonstrates a preexisting ownership or lease interest in the banquet facility.
- (2) The commission shall charge an initial permit issuance fee and, upon renewal of the permit, a permit renewal fee sufficient to cover the cost of administering the issuance and renewal of the permit. The fees shall be \$600.00.
- (3) The banquet facility permit expires on the same date as the on-premise license and may be renewed in conjunction with that license. The commission shall issue the permit only to a licensee to which the following apply:
 - (a) The licensee does not have a record of any prior offenses or violations that the commission considers to be of such a nature as to pose a threat to the general public if a permit is issued.
 - (b) The licensee has demonstrated to the commission that at least 50% of the gross receipts of the on-premise license are derived from the sale of food and nonalcoholic beverages prepared for consumption on the licensed premises.
- (4) The licensee shall apply on forms provided by the commission and provide information considered necessary by the commission to protect the public interest and welfare including, but not limited to, a diagram of the premises and evidence that the premises meets local safety, building, and health codes.

- (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 stock in portfolio under arrangement, trust agreement, or investment trust agreement; issuance and sale of participating shares within state; prohibitions; sale of brandy and spirits by manufacturer or small distiller; conditions; sale by small distiller; interest of brewpub in other locations; interest in business of other supplier; approval pursuant to R 436.1023(3); interest of manufacturer in wholesaler prohibited; delivery of wine by wine maker to retail licensees prohibited; tiers; interpretation of subsection (13); 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 5 other brewpubs if the combined production of all the locations in which the brewpub has an interest does not exceed 18,000 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, Imd. Eff. Nov. 17, 2010; -- Am. 2011, Act 298, Imd. Eff. Dec. 22, 2011; -- Am. 2014, Act 43, Imd. Eff. Mar. 25, 2014

436.1605 Acquisition, development, sale, lease, financing, maintenance, operation, or promotion of real property occupied or to be occupied by another vendor; conditions; denial or approval of arrangement or contract; review; denial, revocation, or suspension of license; wholesaler as party to arrangement or contract prohibited; acquisition, development, sale, lease, financing, maintenance, operation, or promotion of condominium project or unit; exception.

Sec. 605.

- (1) A brewer, wine maker, distiller, brandy manufacturer, or the parent company, a subsidiary or an affiliate of a brewer, wine maker, distiller, or brandy manufacturer 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, wine maker, distiller, or brandy manufacturer 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.
 - (c) Any arrangement or contract entered into between the brewer, wine maker, distiller, brandy manufacturer, 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.

- (d) The brewer, wine maker, distiller, brandy manufacturer, its parent company, subsidiary, or affiliate has not acquired, developed, sold, leased, financed, or maintained, operated, or promoted more than 7 real properties that are occupied or to be occupied by another vendor, except a wholesaler.
- (2) The commission may deny or approve an arrangement or contract to be entered into under this section. In denying or approving an arrangement or contract, the commission shall consider all of the following:
 - (a) That the arrangement or contract to be entered into is concerned only with real property.
 - (b) That the certification required under subsection (1)(b) has been received by the commission.
 - (c) That the arrangement or contract does not violate this act or the rules promulgated under this act.
 - (3) The commission may review any arrangement or contract under this section at the time that 1 of the parties to the arrangement or contract applies for or renews a license. The commission may deny, revoke, or suspend the license of a party to the arrangement or contract if the commission finds that the party to the arrangement or contract has violated this act or the rules promulgated under this act.
 - (4) Except as otherwise provided in subsection (5), a wholesaler shall not be a party to, directly or indirectly, an arrangement or contract under this section.
 - (5) A manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may acquire, develop, sell, lease, finance, maintain, operate, or promote a condominium project or own a condominium unit as its sole property, under the condominium act, 1978 PA 59, MCL 559.101 to 559.276, if that condominium unit is not the licensed premises owned separately by a retailer and if all of the following apply:
 - (a) Condominium assessments in the condominium project are based on the proportional area each condominium unit has to the total area.
 - (b) A condominium unit operating as a licensed premises operates under a separate name from the condominium project except that cooperative advertising shall be permitted among owners of condominium units for the purpose of promoting the condominium project if the name of a brand or brands of an alcoholic liquor is not mentioned in the advertising.
 - (c) Ownership of a condominium unit and participation in a condominium association under this section is not considered a financial interest, interest by ownership, or interest by interlocking directors on stock ownership prohibited by section 603.
 - (d) A retailer separately owning a separate condominium unit as sole property does not directly purchase alcoholic liquor from the manufacturer, warehouse, wholesaler, outstate seller of mixed spirit drink, or vendor of spirits who owns, leases, maintains, finances, or operates the condominium project.
 - (e) A wholesaler that has a direct or indirect interest in a condominium unit in which a retailer is located does not sell alcoholic liquor to any licensed retail business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest; and, a retail licensed business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest does not purchase alcoholic liquor from a wholesaler that has a direct or indirect interest in a condominium or condominium unit in which that retailer is located.
 - (f) A retailer acquiring a separate condominium unit as sole property pays the fair market value for the unit.
 - (6) Subsection (5) does not apply to a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits with a direct or indirect interest in a license under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226. Subsection (5) does not prohibit a direct physical connection between a condominium unit that is the licensed premises and a condominium unit that is not the licensed premises.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2014, Act 45, Imd. Eff. Mar. 25, 2014

436.1607 Eligibility for license as specially designated merchant or specially designated distributor; prohibitions; small distiller; wine maker and small wine maker; brewer as specially designated merchant; brewery hospitality room; sales or deliveries by wholesaler.

Sec. 607.

- (1) Except as provided in section 537(2), a warehouse, mixed spirit drink manufacturer, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not be licensed as a specially designated merchant or a specially designated distributor. A person licensed as a small distiller is not considered to be a specially designated distributor. Beginning December 23, 2007 and in addition to the persons described in this subsection, a wine maker and a small wine maker shall also not be licensed as a specially designated merchant or a specially designated distributor. Any wine maker or small wine maker holding a specially designated merchant or specially designated distributor license on December 23, 2007 may continue to hold a specially designated merchant or specially designated distributor license.
- (2) A specially designated distributor or specially designated merchant or any other retailer shall not hold a mixed spirit drink manufacturer, wholesale, warehouse, outstate seller of beer, outstate seller of mixed spirit drink, or outstate seller of wine license. Beginning December 23, 2007, a specially designated distributor or specially designated merchant shall not hold a wine maker or small wine maker license in addition to being prohibited from holding any other license described in this subsection. Any specially designated distributor or specially designated merchant holding a wine maker or small wine maker license on December 23, 2007 may continue to hold a wine maker or small wine maker license.
- (3) A brewer, warehouse, or wholesaler shall not be licensed as a specially designated merchant. This subsection does not affect the operation of a brewery hospitality room.
- (4) A wholesaler may sell or deliver beer and alcoholic liquor to hospitals, military establishments, governments of federal Indian reservations, and churches requiring sacramental wines and may sell to the wholesaler's own employees to a limit of 2 cases of 24 12-ounce units or its equivalent of malt beverage per week, or 1 case of 12 1-liter units or its equivalent of wine or mixed spirit drink per week.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005 ;-- Am. 2008, Act 218, Imd. Eff. July 16, 2008

436.1609 Aiding or assisting other vendor prohibited; exception; refunding amount of price reductions; providing licensee with advertising items; providing licensee with goods and services; approval by commission; possession and use of brand logoed barware; unauthorized providing or selling of barware; fine; on-premises brand promotional event; removal of merchandise; purchase and sale of brand logoed inventory by retailer holding off-premises license; adding or removing item by rule; definitions.

Sec. 609.

- (1) Except as provided in this section and sections 605 and 1029, a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not aid or assist any other vendor by gift, loan of money or property of any description, or other valuable thing, or by the giving of premiums or rebates, and a vendor shall not accept the same. However, if manufacturers of spirits reduce the price of their products, the manufacturer of spirits may refund the amount of the price reductions to specially designated distributor licensees in a manner prescribed by the commission.
- (2) A manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may, in a manner consistent with rules, regulations, and orders made by the commission, provide another licensee with advertising items that promote the brands and prices of alcoholic liquor produced by the manufacturer; sold by the outstate seller of beer, the outstate seller of wine, or the outstate seller of mixed spirit drink; or distributed by the wholesaler. Except as otherwise provided under subsection (3)

- (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 that is licensed as a specially designated merchant or through a seller that is a partner 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 that is 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.

- (2) If it receives a completed application and the license fee described in section 525(1)(aa), the commission shall issue a wine auction license to a person licensed as a specially designated merchant, or a seller that is a partner with a specially designated merchant, who is arranging for the sale of wine by an owner that is not licensed under this act. The commission shall issue the license for a term of 1 year. The license allows the licensee to hold not more than 12 auctions per license year.
- (3) The license restrictions prescribed under this section and under this act are in addition to those requirements and prescriptions imposed by any local law or ordinance, or resolution of the local unit of government.
- (4) The holder of the wine auction license is responsible for the payment of any applicable sales or excise taxes regarding the sale of the wine by auction.
- (5) The holder of the wine auction license is responsible for the delivery, storing, and warehousing of the wine offered for sale and for the delivery of the wine to the purchasers.
- (6) A person that is licensed to sell wine at wholesale or retail may purchase any wine offered at an auction under this section and may resell that wine in accordance with the terms of the license, if at the time of sale the tag or label remains permanently affixed to the bottle.
- (7) The sale and resale of wine purchased at auction is subject to this act and any rules of the commission promulgated under this act.

History: Add. 2010, Act 175, Imd. Eff. Sept. 30, 2010 ;-- Am. 2014, Act 194, Imd. Eff. June 24, 2014

CHAPTER 11

436.2101 Sale of spirits and mixed spirit drink for consumption on premises; resolution; petition; notice; submission of question to electors; ballot; canvass; effect of tie vote; use of section to nullify referendum vote prohibited.

Sec. 1101.

- (1) Spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, may be sold by restaurants, hotels, and establishments approved by the commission under this act in the following cities, villages, or townships if the legislative body of the city, village, or township by resolution of a majority vote of the members elect, votes in favor of allowing that sale. A petition may be filed with the city, village, or township clerk requesting the submission of the question of sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine. In the case of a city or township, the petition shall be signed by a number of the registered and qualified electors which shall be not less than 35% of the total number of votes cast for all candidates for the office of secretary of state in that city or township at the last general election held for that purpose. In the case of a village, the petition shall be signed by a number of the registered and qualified electors that is not less than 35% of the total number of votes cast for all candidates for the office of president of the village at the last village election held for that purpose. The question shall not be submitted to the electors of a city, village, or township more often than once in every 2 years. The city, village, or township clerk shall, within 10 days after the petition is filed with the clerk, give notice of the filing by publication of notice setting forth the essential facts of the petition in a newspaper published or in general circulation in the city, village, or township. The city, village, or township clerk shall submit the question at the next regular state election held in the city, village, or township if the petitions are filed at least 60 days before the election. Class C licensees in a newly incorporated city or village shall continue to be licensed by the commission until the question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, is submitted to the electors of the city or village as provided in this section. The question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, shall be submitted by ballot in substantially the following form:

“Shall the sale of spirits and mixed spirit drink in addition to beer and wine be permitted for consumption on the premises within the city, village, or township of under the provisions of the law governing same?

Yes
No

- (2) All votes on the question submitted by ballot under subsection (1) shall be taken, counted, and canvassed in the same manner as votes cast in city, village, or township elections, as applicable, are taken, counted, and canvassed. Ballots shall be furnished by the election commission or similar body of the respective city, village, or township. If a majority of the electors voting at an election conducted under this section shall vote in favor of the question submitted by ballot under subsection (1), spirits and mixed spirit drink may be sold under this act in that city, village, or township for consumption on the premises, in addition to beer and wine.
- (3) At any time within 18 months after an election conducted under this section has resulted in a tie vote, the question shall be resubmitted to the electors upon the filing of a petition with the legislative body of the city, village, or township. The petition shall be signed by a number of electors not less than that required under subsection (1) for the calling of an election on an original petition. The question shall be resubmitted to the electors by the city, village, or township clerk at the next regular election if that election occurs not less than 30 days and not more than 60 days after the filing of the petition or at a special election called for that purpose and to be held within not less than 30 days and not more than 60 days after the filing of the petition.
- (4) This section shall not be used by the legislative body of a city, village, or township to nullify the results of a referendum vote of the electors of the city, village, or township.

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

436.2101a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 1101a.

A petition under section 1101, 1107, 1111, or 1113, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 251, Eff. Mar. 23, 1999

436.2103 Sale of spirits and mixed spirit drink for consumption on premises; annexation of territory to city prohibiting sale; continuance of license; referendum.

Sec. 1103.

- (1) If spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, may be sold by restaurants, hotels, and establishments approved by the commission in a city, village, or township and all or a part of that city, village, or township becomes annexed to and a part of a city or village that does not, at the time of annexation, permit those sales, class C licensees in that annexed area shall continue to be licensed by the commission until the next regular, city, or village election, at which election, without the need to file a petition, the question of the sale of spirits and mixed spirit drink for consumption on the premises, in addition to beer and wine, shall be submitted to the electors of the city or village to which the territory has been annexed.
- (2) The form of the ballot, the voting and canvassing of votes, and the effect of the votes shall be as provided in section 1101.
- (3) The fact that a vote has been taken upon that question either in the annexing municipality or in the annexed area, or in both, within 4 years before the annexation is not a bar to the submission of the question as provided in this section.

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