

- (3) All money received by the commission under this act shall be turned over to the state treasurer according to department of treasury procedures.
- (4) All money deposited by the commission with the state treasurer shall be either credited to the revolving fund for expenditures authorized under subsection (1) or credited to the general fund to be available for the purposes for which the general fund is available.

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

436.1223 Liquor control commission; interest of members or employees.

Sec. 223.

A member or employee of the commission shall not be pecuniarily interested, directly or indirectly, in the manufacture, warehousing, sale, distribution or transportation, or selling or furnishing of any equipment, furnishings, or refrigeration used in the manufacture or sale of alcoholic liquor within this state.

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

436.1225 Liquor control commission; civil liability of commission or members.

Sec. 225.

The commission or a member of the commission shall not be personally liable for any action at law for damages sustained by a person because of an action performed or done by the commission or a member of the commission in the performance of their respective duties in the administration and implementation of this act.

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

436.1227 Liquor control commission; establishment of state liquor stores; basis.

Sec. 227.

The commission may establish state liquor stores throughout this state. In counties with a population of less than 40,000 according to the most recent federal census, there shall not be more than 1 store in that county, and in counties with a population of 40,000 or more according to the most recent federal census, there shall not be more than 1 store located in that county for each 40,000 population or major fraction thereof according to the most recent federal census. However, the commission may in its discretion establish a state liquor store in any village or city with a population of 3,000 or more according to the most recent federal census.

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

436.1229 Licensing hotel or merchant to sell spirits for consumption off premises; sale of alcoholic liquor; price; rules; definitions.

Sec. 229.

- (1) The commission may license a hotel or merchant, in places that the commission may designate, to sell spirits for consumption off the premises, notwithstanding section 233(1). Except as otherwise provided in this section, if alcoholic liquor is sold by a specially designated distributor under a license issued under this section, it shall not be sold at less than the minimum retail selling price fixed by the commission and under rules promulgated by the commission.
- (2) The commission may, by rule or order, allow a specially designated distributor to sell alcoholic liquor at less than the minimum retail selling price in order to dispose of inventory at a price and under conditions and procedures established through that rule or order.

- (3) As used in this section and in sections 1201, 1203, and 1207, "retail selling price" means the price the commission pays for spirits plus the gross profit established in section 233.
- (4) As used in this section, "minimum retail selling price" means retail selling price plus the specific taxes imposed in sections 1201, 1203, and 1207.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998; Am. 2004, Act 407, Imd. Eff. Nov. 29, 2004; Am. 2005, Act 288, Imd. Eff. Dec. 19, 2005; Am. 2011, Act 166, Eff. Oct. 11, 2012

436.1231 Liquor control commission; handling of alcoholic liquor; gross profit; leasing and purchasing power.

Sec. 231.

The commission may buy, possess, and sell in its own name all alcoholic liquor for distribution as provided in sections 227 and 229. The commission shall supply such types of alcoholic liquor as are demanded by the public. However, if a brand so demanded is not manufactured within the United States or is not readily obtainable within the United States, then an order for that brand shall be filled by the commission at the entire expense of the person placing that order subject to any gross profit or discounts, or both, provided for in section 233. The commission may lease or occupy any building or land required for its operation, and may purchase any warehouse required for its operation, subject to the approval of the state administrative board.

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

436.1233 Uniform prices for sale of alcoholic liquor; gross profit; prices for sale of alcoholic liquor to hospitals, charitable institutions, and military establishments; discount for certain sales of alcoholic liquor.

Sec. 233.

- (1) The commission shall establish uniform prices for the sale of alcoholic liquor in state liquor stores and by specially designated distributors. The prices shall return a gross profit to the commission of not less than 51% and not greater than 65%. If alcoholic liquor purchased by the commission has not met sales standards established by the commission for a period of 6 months, the commission may sell the alcoholic liquor at a price to be approved by the state administrative board.
- (2) Notwithstanding subsection (1), the commission may establish by rule prices for the sale of alcoholic liquor to hospitals, charitable institutions, and military establishments located in this state.
- (3) There shall be allowed a discount of 17% deducted from the sale price established by the commission on the sale of alcoholic liquor made by the state liquor stores to specially designated distributors and establishments licensed to sell for consumption on the premises.

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

436.1235 Search warrant; seizure of property.

Sec. 235.

A search warrant may be issued in accordance with the code of criminal procedure, 1927 PA 175, MCL 760.1 to 776.21. Under such a search warrant the officer may seize any alcoholic liquor, containers, implements, or conveyances used in connection with the violation of this act or any rule promulgated under this act. A property right does not exist in any alcoholic liquor had, kept, transported, or possessed contrary to law or in any receptacle or container of any kind in which the alcoholic liquor is found, and all such are hereby declared contraband and forfeited to the state and shall be seized. All alcoholic liquor, containers, implements, or conveyances seized under any such search warrant shall be turned over to the commission by direction of the court or magistrate and shall be disposed of in accordance with the

rules promulgated under this act, which shall guarantee the return of such property, or payment of money received for the sale of that property, to the owner unless the owner is charged and convicted of the alleged offense or offenses in connection with which the search and seizure was made.

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

CHAPTER 3

436.1301 Wine tax; levy and collection; rate; sacramental wines; tax on mixed spirit drink; incorporation of farm mutual cooperative wineries; licensing; fee; certification of stockholders or members.

Sec. 301.

- (1) The commission shall levy and collect on all wines containing 16% or less of alcohol by volume sold in this state a tax at the rate of 13.5 cents per liter if sold in bulk and in a like ratio if sold in smaller quantities.
- (2) The commission shall levy and collect on all wines containing more than 16% of alcohol by volume sold in this state a tax at the rate of 20 cents per liter if sold in bulk and in a like ratio if sold in smaller quantities.
- (3) All sacramental wines are nontaxable when used by churches. Sacramental wines may be imported. The commission shall not impose restrictions on importations of wine for sacramental purposes but may promulgate rules as will prevent any abuses which result from the importations. A wholesaler or an outstate seller of wine may sell sacramental wine directly to a church for sacramental purposes.
- (4) The commission shall levy and collect on all mixed spirit drink sold in this state a tax at the rate of 48 cents per liter if sold in bulk or a like ratio if sold in smaller quantities.
- (5) On approval by the commission, the corporation and securities bureau shall incorporate a limited number of farm mutual cooperative wineries as the commission determines to be beneficial to the Michigan grape and fruit industry. These wineries shall be licensed under this act and the payment of 1 license fee annually by the corporation shall authorize wine making on the premises of the corporation and also on the premises of the grape and fruit growing farmers who are members of or stockholders in the corporation. Upon incorporation of a farmers' cooperative corporation as provided for in this section, the members of or the stockholders in the corporation shall be certified to be Michigan grape and fruit growing farmers. Wine making by cooperative corporations on farm premises is allowed, but all sales of the wine shall be made by the corporation and from the corporation premises.

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

Admin Rule: R 436.1001 et seq.; R 436.1701 et seq.; and R 436.1801 et seq. of the Michigan Administrative Code.

436.1303 Grape and wine industry council; creation; appointment, qualifications, and terms of members; chairperson; personnel; expenses; liability on contracts; compensation; books and records; duties of council; rules; "council" defined.

Sec. 303.

- (1) The grape and wine industry council is created in the department of agriculture. The council shall consist of all of the following:
 - (a) Three wine makers.
 - (b) A wine grape grower.
 - (c) The director of consumer and industry services or his or her designee.
 - (d) The director of the department of agriculture or his or her designee.
 - (e) A staff member of Michigan state university appointed by, and serving at the pleasure of, the dean of the college of agriculture and natural resources of Michigan state university.
 - (f) The chairperson of the commission or his or her designee, as an ex officio member.
 - (g) A person who operates a retail food establishment that holds a specially designated merchant license and sells Michigan wines or a person who operates a restaurant that holds a class C license and serves Michigan wines.
 - (h) A beer and wine wholesaler who markets Michigan wine.
 - (i) Not more than 2 additional members appointed as prescribed in subsection (3).

- (2) The members of the council described in subsection (1)(a), (b), (g), and (h) shall be appointed by the governor. The council members appointed under subsection (1)(g) and (h) shall be appointed for 2-year terms beginning on October 1, 1991. Of the council members appointed for terms beginning October 1, 1991, 1 shall be appointed for a 1-year term, and 3 shall be appointed for terms of 2 years each. All appointments for terms beginning on or after October 1, 1992 shall be for 2 years each. A member shall continue to serve until a qualified successor has been appointed. A member shall not serve more than 2 consecutive terms. A vacancy on the board shall be filled in the same manner as the original appointment. The director of the department of agriculture shall act as chairperson of the council.
- (3) The governor may appoint not more than 2 additional members to the council who shall assist the council in performing its duties, but who shall not have the power to vote. The persons appointed under this subsection shall not be members of the classified state civil service, shall serve at the pleasure of the governor, and shall receive salaries and benefits determined and paid by the department of agriculture.
- (4) The council may employ personnel and incur such expenses as are necessary to carry out the purposes of the council under this act. All such expenses shall be paid from fees credited to the wine industry council under section 543(2). A member of the council or an employee or agent of the council shall not be personally liable on the contracts of the council.
- (5) A nongovernmental member of the council shall receive \$50.00 per day for each day spent in actual attendance at meetings of the council and traveling expenses while on council business in accordance with standard travel regulations of the department of management and budget.
- (6) The council shall maintain accurate books and records, and all funds received by the council shall be used to implement and enforce this section.
- (7) The council shall do all of the following:
 - (a) Provide for research on wine grapes and wines, including, but not limited to, methods of planting, growing, controlling insects and diseases, charting microclimates and locations for growing desirable varieties of wine grapes, marketing, processing, distribution, advertising, sales production, and product development.
 - (b) Provide the wine industry, including growers, wineries, distributors, and retailers, with information relative to proper methods of handling and selling wine grapes and wines.
 - (c) Provide for market surveys and analyses for purposes of expanding existing markets and creating new and larger markets for wine grapes and wines.
 - (d) Provide for the promotion of the sale of Michigan wine grapes and wines for the purpose of maintaining or expanding present markets and creating new and larger domestic and foreign markets.
 - (e) Develop and administer financial aid programs to wine grape growers to encourage the increased planting in this state of desirable grape varieties in microclimates determined to provide the best conditions for producing quality wines.
- (8) The council may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the purposes of implementing and enforcing this section. However, a rule shall not be promulgated that conflicts with a rule promulgated by the commission pursuant to section 215.
- (9) As used in this section, "council" means the grape and wine industry council created in subsection (1).

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

and issue an appearance ticket as prescribed in section 9c of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c.

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

436.1707 Selling, serving, or furnishing alcohol; prohibitions.

Sec. 707.

- (1) A vendor shall not sell, serve, or furnish any alcoholic liquor to any person in an intoxicated condition.
- (2) A licensee shall not allow a person who is in an intoxicated condition to consume alcoholic liquor on the licensed premises.
- (3) A licensee, or the clerk, servant, agent, or employee of a licensee, shall not be in an intoxicated condition on the licensed premises.
- (4) A licensee shall not allow an intoxicated person to frequent or loiter on the licensed premises except where the intoxicated person has been refused service of further alcoholic liquor and continues to remain on the premises for the purpose of eating food, seeking medical attention, arranging transportation that does not involve driving himself or herself, or any other circumstances where requiring the person to vacate the premises immediately would be considered dangerous to that person or to the public.
- (5) A licensee shall not allow a minor to consume alcoholic liquor or to possess alcoholic liquor for personal consumption on the licensed premises.
- (6) A licensee shall not allow any person less than 18 years of age to sell or serve alcoholic liquor.
- (7) A licensee shall not allow any person less than 18 years of age to work or entertain on a paid or voluntary basis on the licensed premises unless the person is employed in compliance with the youth employment standards act, 1978 PA 90, MCL 409.101 to 409.124. This subsection does not apply to an entertainer under the direct supervision and control of his or her parent or legal guardian.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2008, Act 11, Imd. Eff. Feb. 29, 2008

CHAPTER 8

436.1801 Granting or renewing license; surety; selling, furnishing, or giving alcoholic liquor to minor or to person visibly intoxicated; right of action for damage or personal injury; actual damages; institution of action; notice; survival of action; general reputation as evidence of relation; separate actions by parents; commencement of action against retail licensee; indemnification; defenses available to licensee; rebuttable presumption; prohibited causes of action; section as exclusive remedy for money damages against licensee; civil action subject to revised judicature act.

Sec. 801.

- (1) Except as otherwise provided in this act, before the approval and granting, or renewal, of a license, the following licensees or applicants for that license shall make, execute, and deliver to the commission a bond executed by a surety company authorized to do business in the state or, in the discretion of the commission, by approved personal surety running to the people of the state, in the following amounts:
 - (a) A manufacturer of beer, a manufacturer of wine, a mixed spirit drink manufacturer, an outstate seller of beer, an outstate seller of mixed spirit drink, and an outstate seller of wine, a bond in an amount equal to 1/12 of the total beer, mixed spirit drink, or wine excise taxes paid to the state in the last calendar year or a bond in the sum of \$1,000.00, whichever is greater, for the faithful performance of the conditions of the license issued and for compliance with this act. A surety shall not cancel a bond issued under this subdivision except upon 30 days' written notice to the commission.

- (b) A special license authorizing the sale of beer, mixed spirit drink, wine, or spirits for consumption on the premises, a bond in the sum of \$1,000.00. A bond issued under this subdivision shall remain in effect for 60 days after the expiration of the special license. A bond is not required for a church or school.
- (2) A retail licensee shall not directly, individually, or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a minor except as otherwise provided in this act. A retail licensee shall not directly or indirectly, individually or by a clerk, agent, or servant sell, furnish, or give alcoholic liquor to a person who is visibly intoxicated.
 - (3) Except as otherwise provided in this section, an individual who suffers damage or who is personally injured by a minor or visibly intoxicated person by reason of the unlawful selling, giving, or furnishing of alcoholic liquor to the minor or visibly intoxicated person, if the unlawful sale is proven to be a proximate cause of the damage, injury, or death, or the spouse, child, parent, or guardian of that individual, shall have a right of action in his or her name against the person who by selling, giving, or furnishing the alcoholic liquor has caused or contributed to the intoxication of the person or who has caused or contributed to the damage, injury, or death. In an action pursuant to this section, the plaintiff shall have the right to recover actual damages in a sum of not less than \$50.00 in each case in which the court or jury determines that intoxication was a proximate cause of the damage, injury, or death.
 - (4) An action under this section shall be instituted within 2 years after the injury or death. A plaintiff seeking damages under this section shall give written notice to all defendants within 120 days after entering an attorney-client relationship for the purpose of pursuing a claim under this section. Failure to give written notice within the time specified shall be grounds for dismissal of a claim as to any defendants that did not receive that notice unless sufficient information for determining that a retail licensee might be liable under this section was not known and could not reasonably have been known within the 120 days. In the event of the death of either party, the right of action under this section shall survive to or against his or her personal representative. In each action by a husband, wife, child, or parent, the general reputation of the relation of husband and wife or parent and child shall be prima facie evidence of the relation, and the amount recovered by either the husband, wife, parent, or child shall be his or her sole and separate property. The damages, together with the costs of the action, shall be recovered in an action under this section. If the parents of the individual who suffered damage or who was personally injured are entitled to damages under this section, the father and mother may sue separately, but recovery by 1 is a bar to action by the other.
 - (5) An action under this section against a retail licensee shall not be commenced unless the minor or the alleged intoxicated person is a named defendant in the action and is retained in the action until the litigation is concluded by trial or settlement.
 - (6) Any licensee subject to the provisions of subsection (3) regarding the unlawful selling, furnishing, or giving of alcoholic liquor to a visibly intoxicated person shall have the right to full indemnification from the alleged visibly intoxicated person for all damages awarded against the licensee.
 - (7) All defenses of the alleged visibly intoxicated person or the minor shall be available to the licensee. In an action alleging the unlawful sale of alcoholic liquor to a minor, proof that the defendant retail licensee or the defendant's agent or employee demanded and was shown a Michigan driver license or official state personal identification card, appearing to be genuine and showing that the minor was at least 21 years of age, shall be a defense to the action.
 - (8) There shall be a rebuttable presumption that a retail licensee, other than the retail licensee who last sold, gave, or furnished alcoholic liquor to the minor or the visibly intoxicated person, has not committed any act giving rise to a cause of action under subsection (3).
 - (9) The alleged visibly intoxicated person shall not have a cause of action pursuant to this section and a person shall not have a cause of action pursuant to this section for the loss of financial support, services, gifts, parental training, guidance, love, society, or companionship of the alleged visibly intoxicated person.
 - (10) This section provides the exclusive remedy for money damages against a licensee arising out of the selling, giving, or furnishing of alcoholic liquor to a minor or intoxicated person.

(11) Except as otherwise provided for under this section and section 815, a civil action under subsection (3) against a retail licensee shall be subject to the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2008, Act 11, Imd. Eff. Feb. 29, 2008

Compiler's Notes: Former sections 22 to 22h of Act 8 of 1933 (Ex. Sess.), being MCL 436.22 to 436.22h, and which were repealed by Act 58 of 1998, Eff. Apr. 14, 1998, were formerly known and cited as the "Dram Shop Act."

Popular Name: Dram Shop Act

436.1803 Retailer or applicant for retail license; liability insurance in lieu of bond; limits; proof of financial responsibility of retail licensee or applicant for retail license; waiver; naming insurer or surety as defendant prohibited; effect of bankruptcy; policies and bonds to be continued from year to year; cancellation of liquor liability insurance; section inapplicable to special licensee or applicant for special license; rules.

Sec. 803.

- (1) Except as otherwise provided in subsection (2), before the renewal or approval and granting of a retail license, a retail licensee or applicant for a retail license shall file with the commission proof of financial responsibility providing security for liability under section 801(3) of not less than \$50,000.00. The proof of financial responsibility may be in the form of cash, unencumbered securities, a policy or policies of liquor liability insurance, a constant value bond executed by a surety company authorized to do business in this state, or membership in a group self-insurance pool authorized by law that provides security for liability under section 801.
- (2) If the commissioner of insurance certifies, pursuant to section 2409b of the insurance code of 1956, 1956 PA 218, MCL 500.2409b, that liquor liability insurance is not reasonably available in this state or is not available at a reasonable premium, the commission may waive the requirements of subsection (1) with regard to any affected retail licensees and applicants for a retail license until the commissioner of insurance certifies that liquor liability insurance is reasonably available or is available at a reasonable premium, as applicable, to the affected licensees and applicants.
- (3) A licensee may furnish proof of financial responsibility that exceeds the requirements of this section.
- (4) An insurer under a policy or policies of liquor liability insurance or a surety under such a bond shall not be named as a defendant in an action brought against the insured or bonded licensee for liability under section 801. Bankruptcy of the insured shall not discharge an insurer or surety under this section from liability. Insurance policies and bonds issued for purposes under this section shall continue from year to year unless sooner canceled by the insurer.
- (5) An insured retail licensee shall not cancel any such liquor liability insurance except upon 30 days' prior written notice to the commission and unless new proof of financial responsibility complying with this section is procured by the retail licensee and delivered to the commission prior to the expiration of the 30-day period, the license of that licensee shall be revoked.
- (6) This section does not apply to a special licensee or applicant for a special license.
- (7) The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and enforce this section.

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

Compiler's Notes: Former sections 22 to 22h of Act 8 of 1933 (Ex. Sess.), being MCL 436.22 to 436.22h, and which were repealed by Act 58 of 1998, Eff. Apr. 14, 1998, were formerly known and cited as the "Dram Shop Act."

Popular Name: Dram Shop Act

Admin Rule: R 436.2001 et seq. of the Michigan Administrative Code.

436.1805 Suit to enforce liability when service of process not effected; affidavit; service upon commission in duplicate; return; copy served on defendant; hearing; duty of commission.

Sec. 805.

If an action is instituted against a retailer as defendant in any court of competent jurisdiction to enforce the liability provided in section 801 and service of process has not been effected in the manner provided for by law, and either the sheriff or constable to whom process has been delivered for service shall make return that he or she has not been able to serve the defendant for a period of 30 days, in which period he or she has made 3 or more attempts to serve the defendant at his or her residence or place of business, or the plaintiff or another person with knowledge of the facts files an affidavit in the cause stating that the defendant has ceased to be a resident of the state of Michigan or has been absent from the state for a continuous period of 6 months, then it shall be competent for the plaintiff to cause service of process to be made upon the defendant by service of the process upon the commission, the liability for which suit is brought arose during the period in which the defendant was a licensed retailer and was insured under the provisions of section 803. Such service of process shall be made in duplicate on the commission, and return showing such service shall be made to the court. The commission shall mail a copy of the process served upon it to the defendant at the address shown in the consent to service of process, and shall immediately transmit to the clerk of the court in which the action is pending an acknowledgment of the mailing of the copy of that process by the commission to the defendant. Whenever the foregoing provisions of this section have been complied with, the court may proceed to hear and determine the matter as fully and effectually as though the defendant retailer had been personally served with process within the jurisdiction of the court. The commission shall also notify the insurer under the liability policy of the defendant, on file with the commission, that the commission has received service of that process, stating the names of the parties to the action and the court in which the action is pending. If the defendant retailer is deceased, service of process may be made upon the executor or administrator of the deceased defendant by service on the commission, in an action in which that service would be authorized by this section upon the defendant if he or she were living, in the manner provided in this section.

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

Compiler's Notes: Former sections 22 to 22h of Act 8 of 1933 (Ex. Sess.), being MCL 436.22 to 436.22h, and which were repealed by Act 58 of 1998, Eff. Apr. 14, 1998, were formerly known and cited as the "Dram Shop Act."

Popular Name: Dram Shop Act

436.1807 Insurer to file notice of termination or cancellation of contract or policy; effective date.

Sec. 807.

The insurer shall file with the commission, at Lansing, Michigan, at least 30 days before the effectiveness of any termination or cancellation of the contract or policy, a notice giving the date at which it is proposed to terminate or cancel the contract or policy. Any termination of the contract or policy shall not be effective as far as the insured covered by the policy is concerned until 30 days after such notice of the proposed termination or cancellation is received by the commission.

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

Compiler's Notes: Former sections 22 to 22h of Act 8 of 1933 (Ex. Sess.), being MCL 436.22 to 436.22h, and which were repealed by Act 58 of 1998, Eff. Apr. 14, 1998, were formerly known and cited as the "Dram Shop Act."

Popular Name: Dram Shop Act

- (2) The revenue received from subsection (1) for the sale of spirits or mixed spirit drink between 12 noon on Sunday and 2 a.m. on Monday shall be deposited with the state treasurer in a special fund to be used only by the department of public health in programs for the treatment of alcoholics. Any other revenue resulting from the additional \$160.00 license fee as described in section 1114 for sales of alcoholic liquor permitted under sections 1111 and 1113 shall be deposited into the general fund.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998; Am. 2010, Act 213, Eff. December 1, 2010

CHAPTER 12

436.2201 Imposition of tax; levy; collection; computations; deposit of proceeds; general fund; inventory.

Sec. 1201.

- (1) In addition to any and all taxes imposed by law, there is imposed and levied upon and collected a specific tax equal to 4% of the retail selling price of spirits. The tax shall be collected by the commission at the time of sale by the commission. In the case of sales to licensees, the tax shall be computed on the retail selling price established by the commission without allowance of discount.
- (2) Upon collection, the commission shall deposit the entire proceeds in the state treasury, to the credit of the general fund.
- (3) If section 1201 is repealed, every licensee, who has on hand any spirits on the effective date of the repeal, shall file a complete inventory of those spirits with the commission within 20 days after the repeal. The commission shall credit to such a licensee an amount equal to 4% of the retail selling price of those spirits on future purchases of spirits from the commission.

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

436.2203 Imposition of tax; levy; collection; computation; deposit of proceeds; state school aid fund.

Sec. 1203.

- (1) In addition to any and all taxes imposed by law, there is imposed, levied upon, and collected a specific tax equal to 4% retail selling price of spirits. The tax shall be collected by the commission at the time of sale by the commission. In the case of sales to licensees, the tax shall be computed on the retail selling price established by the commission without allowance of discount.
- (2) Upon collection, the commission shall deposit the entire proceeds in the state treasury, to the credit of the state school aid fund established by sections 8, 10, and 11 of article IX of the state constitution.

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

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

Sec. 1207.

- (1) The legislature finds and declares that there exists in this state a continuing need for programs to promote tourism and convention business in order to assist in the prevention of unemployment and the alleviation of the conditions of unemployment, to preserve existing jobs, and to create new jobs to meet the employment demands of population growth. In order to achieve these purposes, it is necessary to assist and encourage local units of government to acquire, construct, improve, enlarge, renew, replace, repair, furnish, and equip convention facilities and the real property on which they are located.
- (2) In addition to any other taxes imposed by law, there is imposed, levied upon, and collected a specific tax equal to 4% of the retail selling price of spirits for consumption on the premises. The tax shall be collected by the commission at the time of sale by the commission. In the case of sales to licensees, the tax shall be computed on the retail selling price established by the commission without allowance of discount.
- (3) In addition to any other taxes imposed by law, there is imposed, levied upon, and collected a specific tax equal to 4% of the retail selling price of spirits for consumption off the premises. The tax shall be collected by the commission at the time of the sale by the commission.
- (4) Upon collection, the commission shall deposit the proceeds of the taxes imposed pursuant to subsections (2) and (3) in the state treasury to the credit of the convention facility development fund created by the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, for distribution and use only in the manner and for the purposes stated in that act.
- (5) The tax imposed by this act shall not be levied during any period in which the tax imposed pursuant to the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, is not levied.
- (6) This section shall not be construed as making appropriations.

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

BEER

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

R 436.1601 Definitions.

Rule 1.

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

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

R 436.1603 Rescinded.

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

R 436.1605 Equipment.

Rule 5.

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

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

R 436.1607 Agricultural product compliance with law.

Rule 7.

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

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

R 436.1609 Outstate sellers of beer.

Rule 9.

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

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

R 436.1611 Labels and advertising.

Rule 11.

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

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

R 436.1613 Gifts of beer and consumption on licensed premises.

Rule 13.

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

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

R 436.1615 Sales and transportation by manufacturers; warehouse licensees.

Rule 15.

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

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

R 436.1617 Sales and shipments by outstate sellers of beer.

Rule 17.

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

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

federal alcohol administration act and approved by written order of the commission.

- (1) A Michigan manufacturer shall not bottle bulk domestic or imported wine for sale in any state without a written order of approval from the commission.
- (2) A Michigan manufacturer shall not manufacture or bottle wine for any other manufacturer without a written order of approval from the commission.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1979 AC.

R 436.1717 Restraining orders; record.

Rule 17.

- (1) If wine has not been manufactured in accordance with R 436.1708, then the commission may issue a written order restraining a wine manufacturer from selling, offering for sale, using for blending purposes, or otherwise using the wine, whether it is in the finished state or in the course of manufacture. The order shall remain in force until rescinded or otherwise disposed of by the commission.
- (2) A manufacturer shall keep a complete record, on forms prescribed by the commission, of all wines manufactured.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1979 AC; 1979 ACS 1, Eff. Jan. 1, 1980;- 2000 MR 3, Eff. March 20, 2000.

R 436.1719 Requirements for sale of bottled wine.

Rule 19.

- (1) Bottled wine shall not be offered for sale, kept for sale, sold, delivered, or otherwise introduced into this state unless all of the following provisions have been complied with:
 - (a) The wine is bottled, packaged, marked, branded, and labeled under these rules.
 - (b) The wine label truthfully describes the contents of the container in accordance with these rules and the federal wine regulations published in 27 C.F.R. part 4, subpart D, §§4.1 to 4.80, of 1935, as amended, which are adopted in these rules by reference. Copies of the adopted provisions may be obtained either from the Superintendent of Documents, United States Government Printing Office (GPO), Washington, DC 20402 or from the gpo website at <http://wwbookstore.gpo.gov> at a cost of \$37.00 each as of the time of adoption of these rules, or free of charge from the gpo website at <http://www.gpoaccess.gov/cfr/>. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Licensing and Regulatory Affairs, Secondary Complex, 7150 Harris Drive, P.O. Box 30005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules.
 - (c) The wine has received a registration number of approval from the commission.
- (2) Bottled wine shall not be shipped, delivered, or otherwise introduced into this state unless it is accompanied by an invoice, manifest, or other shipping document listing the quantity of bottled wine, by brand name and corresponding registration number of approval, that is being shipped, delivered, or introduced into this state.
- (3) A manufacturer, rectifier, or outstate seller of wine who is responsible for labeling shall furnish proof, upon request, that valid certificates of approval for the label have been obtained from, and are unrevoked under, the federal labeling requirements as published in 27 C.F.R. part 4, subpart D, §§4.1 to 4.80, of 1935, as amended.
- (4) A shipment of bottled wine from a manufacturer or an outstate seller of wine shall be made only to a licensed wholesaler at the address of the licensed premises, except upon written order of the commission.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1954 ACS 85, Eff. Nov. 6, 1975; 1954 ACS 89, Eff. Oct. 2, 1976; 1979 AC;- 2000 MR 3, Eff. March 20, 2000 ; 2011 MR 20, Eff. Oct. 19, 2011.

R 436.1720 Invoice for bottled wine.

Rule 20.

- (1) Each sale or delivery of wine made by an outstate seller of wine to a licensed wholesaler of wine shall be accurately recorded on a sales invoice, a debit memo, or a credit memo. An outstate seller of wine

shall furnish each licensed wholesaler of wine with 2 copies of each invoice at the time of each sale or delivery of wine.

- (2) Each sales invoice shall have printed thereon the name, address, and location of the outstate seller of wine issuing the invoice and shall also contain all of the following information:
 - (a) The name and address of the licensed wholesaler of wine to whom the sale was made.
 - (b) The date of sale and an identifying invoice number.
 - (c) The quantity, brand, container type, container size, unit price, and total cost of the wine sold.
 - (d) An identifying designation for all wine over 16% alcohol by volume.
 - (e) The address to which the wine was delivered, if different than the address of the licensed wholesaler to whom the wine was sold.
- (3) When a billing error is discovered, an outstate seller of wine shall immediately furnish the licensed wholesaler of wine who was incorrectly billed with 2 copies of either a debit memo or a credit memo to correct the billing error.
- (4) Each debit memo and each credit memo shall have printed thereon the name and address of the outstate seller of wine issuing the debit memo or credit memo and shall also contain all of the
- (5) following information:
 - (a) The name and address of the licensed wholesaler of wine.
 - (b) The date on which the original sale occurred and the identifying number of the invoice being corrected.
 - (c) The corrected quantity, brand, container type, container size, unit price, the net amount debited or credited, and the number of the invoice to which the debit or credit will be applied, if known.
 - (d) The reason for the debit or credit.
- (6) Each licensed wholesaler of wine shall retain on the licensed premises 1 copy of each invoice, debit memo, and credit memo received from an outstate seller of wine and shall forward to the Lansing office of the commission, postmarked not later than the fifteenth day of each month, 1 copy of each invoice, debit memo, or credit memo received during the previous calendar month. Each licensed wholesaler of wine shall include, with the invoices, a summary report of the invoices being submitted. The summary report shall include all of the following information:
 - (a) The name and address of the licensed wholesaler of wine.
 - (b) The calendar month to which the invoices apply.
 - (c) The total number of invoices being submitted.

History: 1954 ACS 89, Eff. Oct. 2, 1976; 1979 AC; 1989 MR 9, Eff. Oct. 4, 1989.

R 436.1721 Requirements for sale of bulk wine.

Rule 21.

- (1) A manufacturer or outstate seller of wine may sell bulk wine of any alcoholic content for blending purposes and nonbeverage purposes without an additional license.
- (2) Bulk wine shall not be offered for sale, kept for sale, sold, delivered or otherwise introduced into this state unless it is approved for sale by the commission and accompanied by a release form, a supply of which shall be furnished by the commission upon request. The release shall be signed by an outstate seller of wine or an authorized agent of the outstate seller of wine.
- (3) When bulk wine is received by a consignee on a release issued by the commission, the consignee shall immediately submit to the commission a copy of the invoice listing the shipment. Upon request the consignee shall readily make available to a commission inspector a copy of the release, the bill of lading, and a copy of the vendor's invoice.

History: 1954 ACS 64, Eff. Sept. 1, 1970; 1954 ACS 89, Eff. Oct. 2, 1976; 1979 AC.

R 436.1722 Transportation of wine.

Rule 22.

- (1) When bottled wine is transported in interstate or intrastate commerce, a copy of the invoice or bill of lading shall accompany the wine and shall be available for inspection by commission representatives and law enforcement agencies.

R 436.1811 Industrial manufacturers.

Rule 11.

- (1) An industrial manufacturer license is required to secure alcohol and bulk alcoholic liquors for exclusive use in manufacturing products for non-beverage purposes.
- (2) An industrial manufacturer licensee shall be issued, pursuant to the act and commission rules, to the following:
 - (a) A person who is the holder of the required basic permit issued under the federal alcohol administration act.
 - (b) A person who has paid the annual license fee and furnished the surety bond set by written order of the commission.
- (3) An industrial manufacturer license shall buy alcohol only from the commission or from a licensee of the commission.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1813 Limited alcohol buyers.

Rule 13.

- (1) A limited alcohol buyer license is required to secure alcohol for medicinal, mechanical, chemical or scientific purposes.
- (2) A limited alcohol buyer license shall be issued, pursuant to the act and commission rules, to a person who has paid the annual fee set by written order of the commission.
- (3) A limited alcohol buyer licensee shall buy alcohol only from the commission or from a licensee of the commission.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1815 Transportation.

Rule 15.

Railroads, steamship lines, express companies, and common carriers of other transporting companies are prohibited from accepting or delivering spirits to any person in this state except in accordance with the following:

- (a) A copy of a release approved by a representative of the commission shall accompany the bill of lading for shipments of spirits made to a person or licensee in this state.
- (b) A release is not required when bottled spirits are shipped with a bill of lading addressed to or in care of the commission.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1817 Warehouse receipts.

Rule 17.

A person shall not sell, offer for sale or in any manner assign or transfer in this state warehouse receipts for spirits, wherever the spirits are located, except as follows:

- (a) An isolated transaction in which a warehouse receipt for spirits is sold, offered for sale or delivered by a bona fide owner or pledgee thereof, such sale or offer for sale or delivery not being made in the course of repeated or successive transactions of a like character by the owner or pledgee, and the owner or pledgee not being a dealer or issuer or salesman of such warehouse receipts.
- (b) A sale of warehouse receipts for spirits by a manufacturer.
- (c) A sale made to a bank, trust company, insurance company, or broker or dealer in warehouse receipts for spirits.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1819 Prohibited acts by licensees.

Rule 19.

- (1) A licensee shall not fail, neglect or refuse to make a report required by these rules or refuse to permit commission representatives to examine his books, federal tax stamps, records, invoices or other papers pertaining thereto, or any stock of spirits in his possession or custody, or make an incomplete, false or fraudulent report or do anything to avoid a full disclosure of the amount of spirits subject to tax.
- (2) A licensee shall not falsely label a container in which spirits are placed for sale, or use or give a false or fictitious name, or use or give a false or fictitious address in an application or form required by these rules, or otherwise commit a fraud in an application, record or report.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1821 Damaged goods.

Rule 21.

No rebates, refunds or adjustments on broken containers, damaged goods, or for other reasons, shall be made by a licensee to any other licensee except by written order of the commission.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1823 Rescissions.

Rule 23.

The following rules are rescinded:

- (a) The rules entitled "Rules and Regulations Governing Vendors and Agents Engaged in the Promotion of the Sale of Distilled Spirits in the State of Michigan," being R 436.131 to R 436.141 of the Michigan Administrative Code, and appearing on page 5319 of the 1954 volume of the Code.
- (b) Rules entitled "Regulations for the Sale and Control of Alcohol, Spirits, Cologne Spirits, Whiskies, Brandies, High Wines, Low Wines for Beverage, Nonbeverage, Industrial, Medicinal, Chemical, Scientific and Tax Free Purposes," being R 436.431 to R 436.439 and R 436.450 of the Michigan Administrative Code, and appearing on pages 5371 to 5375 of the 1954 volume of the Code.
- (c) Rule 6 of the rules entitled "Wines," being R 436.1706 of the Michigan Administrative Code and appearing on page 5788 of the 1970-71 Annual Supplements to the Code.

History: 1954 ACS 83, Eff. May 2, 1975; 1979 AC.

R 436.1825 Adoption by reference of federal standards of identity for spirits.

Rule 25.

The federal standards of identity, published at 27 C.F.R. part 5, subpart C, §§5.21 to 5.23, of 1935, as amended, are adopted by reference in these rules as the standards of identity for the classes and types of bottled spirits. Copies of the adopted standards may be obtained either from the Superintendent of Documents, United States Government Printing Office (gpo), Washington, DC 20402 or from the gpo website at <http://bookstore.gpo.gov> at a cost of \$37.00 each as of the time of adoption of these rules, or free of charge from the gpo website at <http://www.gpoaccess.gov/cfr>. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Licensing and Regulatory Affairs, Secondary Complex, 7150 Harris Drive, P.O. Box 3005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules. The commission may establish other standards by written order.

History: 2000 MR 3, Eff. March 20, 2000; 2011 MR 20, Eff. Oct. 19, 2011.

R 436.1827 Adoption by reference of federal distilled spirit regulations.

Rule 27.

A manufacturer of spirits shall manufacture spirits under the federal distilled spirit regulations published at 27 C.F.R. part 19, §§19.1 to 19.792, of 1935, as amended, which are adopted in these rules by reference. Copies of the adopted provisions may be obtained from the Superintendent of Documents, United States

Government Printing Office, Washington, DC 20402, at a cost as of the time of adoption of these rules of \$49.00. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Consumer and Industry Services, Secondary Complex, 7150 Harris Drive, P.O. Box 30005, Lansing, Michigan 48909, at a cost as of the time of adoption of these rules of \$55.00 each.

History: 2000 MR 3, Eff. March 20, 2000.

R 436.1829 Labels and advertising.

Rule 29.

The sale of spirits is prohibited in this state unless all of the following provisions are complied with:

- (a) The spirit is packaged, marked, branded, and labeled in accordance with these rules.
- (b) The spirit label truthfully describes the contents of the container in accordance with these rules and the federal distilled spirit regulations published at 27 C.F.R. part 5, subpart C, of 1935, as amended, which are adopted by reference in R 436.1825.
- (c) A vendor of spirits shall furnish proof upon request that a valid certificate of approval for the label has been obtained and is unrevoked under the federal labeling requirements at 27 C.F.R. part 5, subpart C, of 1935, as amended, which are adopted by reference in R 436.1825.
- (d) The commission has issued a registration number of approval for the spirits.

History: 2000 MR 3, Eff. March 20, 2000; 2011 MR 20, Eff. Oct. 19, 2011.
