



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of)
PRODUCT ADJUSTMENTS BY)
WHOLESALERS AND MANUFACTURERS)
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At the November 30, 2016 meeting of the Michigan Liquor Control Commission in
Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

ADMINISTRATIVE ORDER NO. 2016-05
PRODUCT ADJUSTMENTS BY WHOLESALERS AND MANUFACTURERS

Article IV, Section 40, of the Michigan Constitution (1963), permits the legislature to establish a Liquor Control Commission, which shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. MCL 436.1201(2) provides the Commission with the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession, transportation and sale thereof.

Pursuant to administrative rules R 436.1633 and R 436.1735(5), the Commission may provide for product adjustments on beer and wine, such as returning products from a retailer to a wholesaler or manufacturer or refunds from a wholesaler or manufacturer to a retailer, if approved by a written order of the Commission.

Administrative rule R 436.1633 provides that a refund or other adjustment on beer containers shall not be made to a retail licensee by a manufacturer or wholesaler unless other reasonable grounds for a refund or adjustment are approved by written order of the Commission.

Administrative rule R 436.1735(5) provides that bottled wine or wine containers shall not be returned to a wholesaler or manufacturer, except as provided by written order of the Commission.

After review and discussion of the issues at the meeting, the Commission finds that product adjustments by wholesalers and manufacturers pursuant to administrative rules R 436.1633 and R 436.1735(5) should be approved subject to the provisions in the administrative rules and provided in this Administrative Order.

THEREFORE, IT IS ORDERED that:

- A. Product adjustments made by wholesalers and manufacturers may be by refund in the amount paid for the product by the retail licensee or product replacement of like product on a one-for-one basis under administrative rule R 436.1633 and R 436.1735(5) for the following reasons:
1. Outdated product.
 2. Seasonal closing of retail licensee.
 3. Retail licensee going out of business or placing license in escrow.
 4. Driver/Salesperson delivery error.
 5. Order error by retail licensee.
 6. Discontinuance of brand by supplier.
 7. License suspension or revocation.
 8. Short fill.
 9. Off taste, off color, sediment in product, adulterated product, contaminated product, or spoiled product.
 10. Breakers or leakers at the time of delivery.
 11. IRS or Michigan Department of Treasury seizure.
 12. Saleable product not used by a Special licensee.

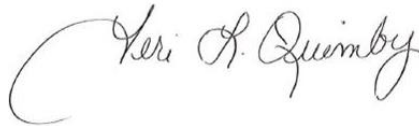
B. Michigan beer wholesalers may exchange like products with retail licensees on a one-for-one basis, for beer products nearing out-of-date code, subject to the following:

1. Wholesalers are strictly prohibited from making adjustments in the form of cash or credit refunds on beer products nearing out of date code. These adjustments are limited to product exchanges of like products on a one-for-one basis.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Teri L. Quimby, Commissioner



Dennis Olshove, Commissioner