STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of the request of	)
5 MILE BREWING COMPANY, LLC	)
for a declaratory ruling regarding	)
R 436.582, MCL 436.1203a	)
	)

At the Michigan Liquor Control Commission (Commission) November 22, 2022, meeting in Lansing, Michigan.

PRESENT: Patrick Gagliardi, Chair
Lee Gonzales, Commissioner

DENIAL OF DECLARATORY RULING REQUEST

On October 24, 2022, the Commission received a request for declaratory ruling under Mich. Admin. Code, R 436.1971 from Dayne Bartschet, Managing Partner of 5 Mile Brewing Company LLC on behalf of 5 Mile Brewing Company LLC (Petitioner), on whether a special licensee may purchase beer from a micro brewer licensee.

Pursuant to Mich. Admin. Code, R 436.1973(1), the Commission has thirty (30) days from receipt of the request to notify the Petitioner if a declaratory ruling would be issued. On November 22, 2022, the Commission met in an open meeting at 10:30 a.m. at the Lansing office of the Commission and considered the Petitioner's request. After deliberation and discussion at the open meeting, the Commission denied the request for the declaratory ruling. If a request for a declaratory ruling is denied, the Commission shall issue a concise written statement of its principal reasons for denial within thirty (30) days of the denial. Mich. Admin. Code, R 436.1975. For the reasons stated below, the request is denied.

The Petitioner is a licensee of the Commission and holds a Micro Brewer License, Salesperson Licenses, On-Premises Tasting Room, Sunday Sales (AM), Entertainment, Outdoor Service Areas and Beer and Wine Tasting Permits located at 2515 Riopelle, Detroit, MI 48207-4526 in Wayne County.

Article IV, Section 40, of the Michigan Constitution (1963), permitted the Legislature to establish a Liquor Control Commission that shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales, 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.

The Petitioner argues that according to the strict language of Mich. Admin. Code R 436.582, a special licensee cannot purchase products from a micro brewer, which places additional burdens on a small micro brewer seeking to get their products into a special licensee's event and actively works against the expressed legislative interest of Section 203a of the Michigan Liquor Control Code, MCL 436.1203a. The Commission agrees that per Section 203, Section 203a, and Section 203b of the Michigan Liquor Control Code, a qualified small distiller, a microbrewer, and a mixed spirit drink manufacturer may self-distribute to a retailer including a special licensee in accordance with the strict conditions set forth in those sections of the Michigan Liquor Control Code. The Commission's Special License Frequently Asked Questions (FAQs) on its website have been updated to make that clear thus mooting this request.

Therefore, the Commission has determined that the Petitioner's request for a declaratory ruling is moot and therefore is DENIED.

MICHIGAN LIQUOR CONTROL COMMISSION

Pat Gagliardi, Chair

Lee Gonzales, Commissioner

Date Mailed: November 22, 2022