



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

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In the matter of the request of )  
**NEW HOLLAND BREWING COMPANY, L.L.C.** )  
for a declaratory ruling regarding )  
MCL 436.1534 )  
\_\_\_\_\_)

At the Michigan Liquor Control Commission (Commission) June 26, 2018 meeting in  
Lansing, Michigan.

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

**DENIAL ORDER**  
**REQUEST FOR DECLARATORY RULING**

On May 30, 2018, Brett Vanderkamp, President of New Holland Brewing Company, L.L.C. (Petitioner) requested that the Commission issue a declaratory ruling pursuant to administrative rule R 436.1971.

Petitioner is a licensee of the Commission and holds Mixed Spirit Drink Manufacturer, Small Distiller, and Micro Brewer licenses with Outdoor Service and Off-Premises Storage located at 684 Commerce Ct, Holland, MI 49424. Petitioner also holds Small Distiller, Small Wine Maker, and Micro Brewer licenses located at 66 E 8<sup>th</sup> St, Holland MI 49423-3504 and Small Distiller and Micro Brewer licenses located at 417 Bridge St NW, Grand Rapids, MI 49504-5305.

Petitioner's request for a declaratory ruling seeks to allow the sale of mixed spirit drinks directly to consumers for consumption on or off its licensed premises when the mixed spirit drink is made using the spirit products manufactured under the authority of its small distiller licenses. In its request for a declaratory ruling, the Petitioner relies upon Section 534(2) of the Michigan Liquor Control Code of 1998 (Code), which provides as follows:

A small distiller may only sell at retail from the licensed premises either or both of the following: (a) Brands it manufactures on the licensed premises for consumption off the licensed premises, at a price posted by the commission under section 233. (b) Brands it manufactures on the licensed premises for consumption on the licensed premises. MCL 436.1534(2)

A “small distiller” is defined in Section 111(9) of the Code, as “a manufacturer of spirits annually manufacturing in Michigan not exceeding 60,000 gallons of spirits, of all brands combined.” MCL 436.1111(9). A small distiller license as defined under Section 111(9) of the Code only allows for the manufacture of spirits and not mixed spirit drink. Since the Code does not provide for or allow a small distiller to manufacture mixed spirit drink as defined in Section 109(5) of the Code, Section 534 does not authorize a small distiller to sell mixed spirit drink at retail.

“Mixed spirit drink” is defined in Section 109(5) of the Code as:

a drink produced and packaged or sold by a mixed spirit drink manufacturer or an outstate seller of mixed spirit drink that contains 10% or less alcohol by volume consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials and that may also contain 1 or more of the following: (a) Water. (b) Fruit juices. (c) Fruit adjuncts. (d) Sugar. (e) Carbon dioxide. (f) Preservatives. MCL 436.1109(5)

Section 109(5) further makes it distinctly clear that a mixed spirit manufacturer license or an outstate seller of mixed spirit drink license is required to manufacture and sell this statutorily defined product. The Petitioner holds a separate and distinct license from its small distiller license to manufacture mixed spirit drink on its licensed premises. Each license issued by the Commission confers specific rights under the Code for the manufacture, importation, distribution, and sale of alcoholic liquor in this state. It is clear that the Petitioner cannot manufacture mixed spirit drink products under its small distiller license; therefore, Section 534 has no bearing on the manufacture, distribution, or sale of mixed spirit drink. As noted in Section 109(5) above, only a

mixed spirit drink manufacturer or an outstate seller of mixed spirit drink may manufacture and sell this product.

“Mixed spirit drink manufacturer” is defined in Section 109(6) of the Code as:

Any person licensed under this act to manufacture mixed spirit drink in this state and *to sell mixed spirit drink to a wholesaler.* MCL 436.1109(6).  
(*Emphasis added*)

The definition of mixed spirit drink manufacturer in Section 109(6) clearly requires the manufacturer of this product to sell mixed spirit drink products to a wholesaler who then may sell these products to a retailer. Nowhere in Section 534 or Section 109(6) does it state that a small distiller that also holds a manufacturer of mixed spirit drink license may sell mixed spirit drink at retail for consumption on or off the licensed premises.

Furthermore, Section 537 of the Code, being MCL 436.1537, enumerates those classes of licensees permitted to sell alcoholic liquors at retail and a mixed spirit drink manufacturer is NOT included as a licensee that may sell at retail.

After reviewing Petitioner’s request for a declaratory ruling, the arguments made by the Petitioner in its request, the response to the request submitted by the Michigan Beer & Wine Wholesalers Association, and the pertinent sections of the Code, the Commission concludes that the Code is clear and unambiguous in its meaning and declines to issue the requested declaratory ruling.

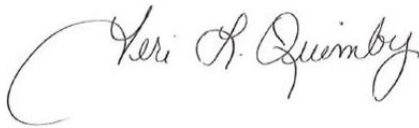
THEREFORE, IT IS ORDERED THAT New Holland Brewing Company, Inc.’s request for a declaratory ruling is DENIED.

MICHIGAN LIQUOR CONTROL COMMISSION



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Andrew J. Deloney, Chairman



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Teri L. Quimby, Commissioner



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Dennis Olshove, Commissioner

Date Mailed: July 30, 2018