

**DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH**

**LIQUOR CONTROL COMMISSION**

**LICENSING QUALIFICATIONS**

(By authority conferred on the liquor control commission by section 215(1) of 1998 PA 58, MCL 436.1215(1))

**R 436.1101 Rescinded.**

History: 1979 AC;

**R 436.1103 Application for license; forms; required information.**

Rule 3. (1) An application for a license shall be made to the commission in Lansing on forms approved by the commission.

(2) An applicant for a license shall provide to the commission, or representatives of the commission, all information necessary for investigation and processing of the application.

History: 1979 AC.

**R 436.1105 Application for license; denial; grounds.**

Rule 5. (1) An applicant for a license shall provide evidence in the application of, or demonstrate at a hearing, all of the following:

(a) Any of the following:

(i) If an individual, that the applicant is the legal age for the consumption of alcoholic liquor in this state.

(ii) If a partnership, that all partners are the legal age for the consumption of alcoholic liquor in this state.

(iii) If a privately held corporation, that all stockholders are the legal age for the consumption of alcoholic liquor in this state, unless the stock of the stockholders is held in a fiduciary relationship.

(iv) If a limited liability company, that all members are the legal age for the consumption of alcoholic liquor in this state.

(b) The existence of adequate legitimate and verifiable financial resources for the establishment and operation of the proposed licensed business in proportion to the type and size of the proposed licensed business.

(c) The existence of an adequate physical plant or plans for an adequate physical plant appropriate for the type and size of the proposed licensed business.

(d) That the location of the proposed licensed business shall adequately service the public.

(2) The commission shall consider all of the following factors in determining whether an applicant may be issued a license or permit:

- (a) The applicant's management experience in the alcoholic liquor business.
- (b) The applicant's general management experience.
- (c) The applicant's general business reputation.
- (d) The opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business.
- (e) The applicant's moral character.
- (f) The order in which the competing initial application forms are submitted to the commission; however, this subdivision shall not apply to an application for a resort license authorized by section 531 of 1998 PA 58, MCL 436.1531.
- (g) Past convictions of the applicant for any of the following:
  - (i) A felony.
  - (ii) A crime involving the excessive use of alcoholic liquor.
  - (iii) A crime involving any of the following:
    - (a) Gambling.
    - (b) Prostitution.
    - (c) Weapons.
    - (d) Violence.
    - (e) Tax evasion.
    - (g) Fraudulent activity.
    - (h) Controlled substances.
  - (iv) A misdemeanor of such a nature that it may impair the ability of the applicant to operate a licensed business in a safe and competent manner.
- (v) Sentencing for any of the offenses specified in this subrule after a plea of nolo contendere.
- (h) The applicant's excessive use of alcoholic liquor.
- (i) The effects that the issuance of a license would have on the economic development of the area.
- (j) The effects that the issuance of a license would have on the health, welfare, and safety of the general public.

(3) An application for a new license, an application for any transfer of interest in an existing license, or an application for a transfer of location of an existing license shall be denied if the commission is notified, in writing, that the application does not meet all appropriate state and local building, plumbing, zoning, fire, sanitation, and health laws and ordinances as certified to the commission by the appropriate law enforcement officials. The commission may accept a temporary or permanent certificate of occupancy for public accommodation issued by the appropriate officials as evidence of compliance with this subrule.

History: 1979 AC; 1985 AACS; 1995 AACS; 1998-2000 AACS; 2004 AACS.

**R 436.1107 Renewal of license.**

Rule 7. (1) A license that is not in active operation shall be placed in escrow with the commission.

(2) A licensee shall have only 5 licensing years after the expiration date of the escrowed license to put the license into active operation. If the licensee fails to put the license into active operation within 5 years after its expiration, then all rights to the

license shall terminate unless the commission has received written verification of either of the following:

(a) That the license or an interest in the license is the subject of litigation or estate or bankruptcy proceedings in a court of competent jurisdiction.

(b) That the license was placed into escrow as a result of damage to the licensed premises by fire, flood, tornado or other natural event that makes the licensed premises unsuitable for the operation of the business and unsafe for public accommodation.

(3) If the commission extends the length of time for which a licensee may renew the license during the pendency of litigation or estate or bankruptcy proceedings or as a result of damage to the licensed premises for the reasons as stated in subrule (2) of this rule, then the licensee shall pay the

required license fee for each elapsed licensing year before placing the license in active operation.

(4) The commission may extend the length of time for which a licensee may renew the license upon written order of the commission after a showing of good cause.

(5) Except as provided in subrule (3) of this rule, a license held in escrow with the commission shall be renewed in the same manner as an active license, including payment of all required license fees, each year by April 30.

(6) A licensee who places a license in escrow with the commission shall be responsible for providing the commission with current contact information, in writing, for all correspondence, which includes the name, mailing address, and telephone number.

(7) The commission shall provide or attempt to provide each licensee whose license is in escrow with a copy of this rule.

(8) A license that is held in escrow with the commission on the effective date of this rule begins the 5-year period allowed by subrule (2) of this rule on March 24, 2004.

History: 1979 AC; 2004 AAC; 2010 AAC.

### **R 436.1109 Application for license by corporation; requirements.**

Rule 9. (1) A corporation applying for a license shall file with the commission all of the following, as applicable:

(a) If incorporated outside of this state, a copy of its current articles of incorporation, a current certificate of good standing from the state of incorporation, and a copy of the authorization to do business in this state issued by the Michigan department of labor and economic growth.

(b) If a Michigan corporation, a copy of the current articles of incorporation as approved by the Michigan department of labor and economic growth.

(c) A certified copy of the minutes of a meeting of its board of directors or a statement signed by an officer of the corporation naming the persons authorized by corporate resolution to sign the application and other documents required by the commission.

(d) A signed statement providing the identity of its current corporate officers and the members of the board of directors.

(e) A signed statement indicating whether or not the corporation is a privately held corporation. If the corporation is a privately held corporation, then it shall also

file, with the commission, a signed statement that includes all of the following information:

- (i) The number of shares of stock that it has issued.
- (ii) To whom the stock was issued.
- (iii) The amount of stock issued to each stockholder.
- (iv) The date of the issuance of the stock.
- (v) The individual certificate numbers of the stock issued.

(2) The commission shall not renew a license of a corporation unless the corporate charter is current.

(3) The commission shall suspend the license of a corporation whose corporate charter is not current.

(4) A corporate licensee applying for another license is required to meet the provisions of this rule only once if the licensee amends its filing to keep it current under this rule.

History: 1979 AC; 1998-2000 AACCS; 2004 AACCS.

**R 436.1110 Application for license by limited liability company; receipt of distributions by assignee of membership interest in company; approval for reorganization or realignment of company; transfer fee; notification of changes in managers, members, assignees, articles of organization, or operating agreement; investigation of company; company authorization to do business in state required.**

Rule 10. (1) A limited liability company applying for a license shall file all of the following items with the commission, as applicable:

(a) If a foreign limited liability company, a copy of the certificate of authority issued by the Michigan department of labor and economic growth.

(b) If a domestic limited liability company, a copy of the articles of organization filed with the Michigan department of labor and economic growth.

(c) A copy of the operating agreement or agreements or bylaws entered into by the members under 1993 PA 23, MCL 450.4101 et seq.

(d) A copy of any amendments to its articles of organization.

(e) A copy of the most recent annual statement, if any, filed with the Michigan department of labor and economic growth.

(f) A signed statement that includes the full names and addresses of its current members, managers, and assignees of membership interest.

(g) A statement signed by a manager of the limited liability company or by at least 1 member if management is reserved to the members naming the person authorized to sign the application and other documents required by the commission. If a foreign limited liability company, a person who has the

authority to sign under the laws of the jurisdiction of its organization shall sign the statement and shall indicate the capacity in which the person signs the statement.

(2) An assignee of any membership interest in a licensed limited liability company shall not receive the distributions to which the assignor would be entitled, unless the assignee has received the prior written approval of the commission.

(3) Any reorganization or realignment of a limited liability company within a single licensing year that results in a transfer of more than 10% of the total interest in the limited liability company is considered a transfer requiring prior approval of the commission under section 529 of 1998 P.A. 58, MCL 436.1529.

(4) A transfer, in the aggregate, of 50% or more of the total interest in a limited liability company during any licensing year shall, upon approval by the commission, require the payment of a transfer fee in accordance with section 529 of 1998 P.A. 58, MCL 436.1529.

(5) A licensed limited liability company shall immediately notify the commission, in writing, of any change in any of the following:

- (a) Managers.
- (b) Members.
- (c) Assignees of membership interest.
- (d) Articles of organization.
- (e) Operating agreement.

(6) The commission may investigate any transfer of interest in a limited liability company or any proposed member, manager, or assignee of membership interest in a limited liability company.

(7) A licensed limited liability company shall be authorized to do business under the laws of this state.

History: 1995 AACCS; 1998-2000 AACCS; 2004 AACCS.

#### **R 436.1111 Application for license by partnership; requirements.**

Rule 11. (1) Each general partner of a partnership shall sign the application, bond, and other papers filed in connection with securing a new license or transferring an existing license. This requirement may be waived by the commission upon a showing of good cause.

(2) A limited partnership applying for a license shall furnish a copy of the partnership agreement.

History: 1979 AC.

#### **R 436.1113 Wholesale license; minimum qualifications; corporate stock transfer.**

Rule 13. (1) Before the issuance of a wholesale license, an applicant shall meet all of the following minimum qualifications, as applicable:

(a) The applicant shall hold the required basic permit issued under the federal alcohol administration act of 1935, 27 U.S.C., §201 et seq.

(b) If an individual, the applicant shall be of good moral character; if a partnership, each partner shall be of good moral character; if a limited liability company, each member shall be of good moral character; or if a privately held corporation, all stockholders, officers, and members of the board of directors shall be of good moral character.

(c) The applicant shall have facilities in which to store beer and wine on the licensed premises.

(d) If an individual, submit his or her fingerprints; if a partnership, submit the fingerprints of each partner; if a limited liability company, submit the fingerprints of each member and manager who owns 10% or more of the total interest of the limited liability company; or if a privately held corporation, submit the fingerprints of stockholders who own 10% or more of the corporate stock and the fingerprints of all officers.

(2) If a person who has not been fingerprinted by the commission applies to transfer to himself or herself 10% or more of the corporate stock, in the aggregate, of a privately held licensed wholesale corporation or 10% or more of the total interest, in the aggregate, of a wholesale limited liability company, then the commission shall investigate and fingerprint the person before the commission approves the stock transfer.

History: 1979 AC; 2000 AACCS.

**R 436.1115 Retail license; minimum qualifications; corporate stock transfer.**

Rule 15. (1) Before the issuance of a retail license, an applicant shall meet both of the following minimum qualifications, if applicable:

(a) If an applicant is an individual, the applicant shall be of good moral character; if an applicant is a partnership, each partner shall be of good moral character; if an applicant is a limited liability company, each member shall be of good moral character; and if an applicant is a privately held corporation, all stockholders, officers, and members of the board of directors shall be of good moral character.

(b) If an applicant is an individual, he or she shall submit fingerprints; if an applicant is a partnership, other than a limited partnership, the applicant shall submit the fingerprints of each partner; if an applicant is a limited partnership, the applicant shall submit the fingerprints of each general partner; if an applicant is a limited liability company, the applicant shall submit the fingerprints of each member and manager who owns 10% or more of the total interest of the limited liability company; and if an applicant is a privately held corporation, the applicant shall submit the fingerprints of those stockholders who own 10% or more of the corporate stock.

(2) If a person who is a stockholder in an applicant corporation and who has not been fingerprinted by the commission applies to transfer to himself or herself 10% or more of the corporate stock, in the aggregate, of a privately held licensed retail corporation, then the commission shall fingerprint and investigate the person before the commission grants approval of the stock transfer.

(3) If a person who is a member of a limited liability company and who has not been fingerprinted by the commission applies to transfer to himself or herself 10% or more of the total interest in the retail licensed limited liability company, then the commission shall fingerprint and investigate the person before the commission grants approval of the transfer of interest.

History: 1979 AC; 1998-2000 AACCS.

**R 436.1117 Retail license; participating agreement.**

Rule 17. (1) An applicant for a retail license or a retail licensee shall not enter into a participating agreement, except in either of the following situations:

(a) If the commission approves the participating agreement after a showing of good cause by the applicant.

(b) If the nonlicensee receives not more than 10% of the gross sales of the licensed business.

(2) The compensation included in a participating agreement shall not be computed on the gross or net profits of the licensed business.

(3) The participating agreement shall be in writing and available for review by the commission.

History: 1979 AC; 1998-2000 AACS; 2004 AACS.

**R 436.1119 Retail license; agreements.**

Rule 19. (1) An agreement to buy and sell a business licensed to sell alcoholic liquor at retail, wherein there is not a total cash transaction, and which includes both the personal property and the real estate, shall include a separate statement listing the personal property and the real estate and the terms and price of each.

(2) A retail licensee shall not include alcoholic liquor in a security agreement or in a financing statement filed pursuant to Act No. 174 of the Public Acts of 1962, as amended, being S440.1101 et seq. of the Michigan Compiled Laws, and known as the uniform commercial code.

History: 1979 AC; 1984 AACS; 1987 AACS.

**R 436.1121 On-premises license; requirements.**

Rule 21. (1) An applicant for an on-premises license, except for a special license, shall have a minimum down payment of 10% of the purchase price of the proposed licensed business, excluding the real estate and any alcoholic liquor. The commission may waive the down payment requirement upon a showing of good cause.

(2) All funds used in purchasing the proposed licensed business shall belong to the applicant individually and shall come from any of the following approved sources:

(a) Money accumulated by the applicant from legitimate and verifiable sources.

(b) Money derived from state or federally approved lending institutions.

(c) Gifts or loans, or both, derived from members of the applicant's immediate family, if the gifts or loans have come from other approved sources and the family member giving the gift or loan is of good moral character.

(d) Loans derived from the federal veterans administration.

(e) Any combination of the sources of funds specified in this subrule.

(f) Any other source approved by the commission after a showing of good cause by the applicant.

History: 1979 AC; 1998-2000 AACS.

**R 436.1123 Resort license; minimum qualifications.**

Rule 23. (1) An applicant for a resort license or a resort economic development license that allows the consumption of alcoholic liquor on the premises shall meet 1 of the following minimum qualifications:

(a) The proposed licensed establishment shall be in compliance with all of the following provisions:

(i) Be a full service restaurant that is open to the public and prepares food on the premises.

(ii) Have dining facilities to seat not less than 100 patrons unless exempted under section 531(3) of 1998 P.A. 58, MCL 436.1531(3).

(iii) Be open for food service not less than 5 hours per day, 5 days per week.

(iv) Not less than 50% of the gross receipts of the business are derived from the sale of food and beverages for consumption on the premises, not including the sale of alcoholic liquor.

(b) The proposed licensed establishment has sleeping facilities with a minimum of 25 bedrooms, meeting or conference rooms capable of accommodating not less than 200 patrons, or convention facilities capable of accommodating not less than 200 persons.

(c) The proposed licensed establishment is a sports/entertainment venue.

(d) The proposed licensed establishment is located on a golf course which is open to the public and which has not less than 18 holes that, in total, measure not less than 5000 yards.

(2) An applicant for a resort license or resort economic development license shall submit 2 pictures, measuring 5 inches by 7 inches, to the commission if the application is for a completed building. One picture shall show the interior of the proposed licensed establishment and 1 picture shall show the exterior of the proposed licensed establishment. If the application is made for a proposed licensed establishment which is still to be constructed, then the applicant shall submit 1 copy of the floor plan of the proposed licensed establishment.

History: 1979 AC; 1985 AAC; 2004 AAC.

**R 436.1125 Resort license; limitation.**

Rule 25. The commission shall not consider issuing a resort license which allows the consumption of alcoholic liquor on the premises where an on-premises license is available under the quota provisions of the act. The commission may waive this rule upon a showing of good cause.

History: 1979 AC; 1985 AAC.

**R 436.1127 Club license; requirements.**

Rule 27. (1) An applicant for a club license shall file with the commission all of the following:



(a) A certified copy of the resolution requesting a license adopted at a bona fide club meeting.

(b) A copy of the constitution, charter, and bylaws of the club.

(c) An affidavit certifying that there are no racial disqualifications for membership or guest privileges contained in the charter, constitution, franchise, bylaws, membership application, or related documents under which the club operates.

(2) An applicant for a club license shall have its minutes recorded in English and available for inspection.

History: 1979 AC.

**R 436.1129 Specially designated merchant license; issuance and transfer; limitation; waiver; applicability.**

Rule 29. (1) For the issuance of a new, or the transfer of location of an existing, specially designated merchant license, all of the following are approved types of businesses:

(a) A grocery store.

(b) A convenience food store.

(c) A food specialty store.

(d) A meat market.

(e) A delicatessen.

(f) A drugstore.

(g) A patent medicine store.

(h) A tobacconist that is in compliance with subrule (3)(e) of this rule.

(i) A department store that includes 1 or more of the stores listed in subdivisions (a) to (h) of this subrule.

(j) A specially designated distributor.

(k) A class C.

(l) A class B hotel.

(m) A club.

(n) A tavern.

(o) A class A hotel licensed establishment.

(2) The commission shall not issue a new, or transfer location of an existing, specially designated merchant license to an applicant operating an approved type of business who also holds, or a partner or stockholder of an applicant who holds, an interest, directly or indirectly, in a nonapproved type of business on, or contiguous to, the proposed licensed premises, unless 60% or more of the combined monthly gross sales of the approved and nonapproved businesses are of goods and services customarily marketed by the approved type of business. For the purposes of this subrule, combined monthly gross sales are sales exclusive of all taxes collected by a retailer on sales and are computed for an accounting period of not less than 180 consecutive days. The commission may approve an application under this rule subject to the condition that the applicant shall demonstrate compliance with this subrule at the end of the 180-day accounting period. The commission shall cancel the license if the licensee has failed to comply with the provisions of this subrule at the end of the 180-day accounting period.

(3) The commission shall not issue a specially designated merchant license to any of the following entities and shall not allow any of the following entities to change the nature of an existing business that has a specially designated merchant license:

(a) An applicant who owns motor vehicle fuel pumps which are at the same location as, which are operated in conjunction with, or which are a part of, the proposed licensed business.

(b) An applicant who holds any financial interest, directly or indirectly, in the establishment, maintenance, operation, or promotion of the sale of motor vehicle fuel at the proposed location of, in conjunction with, or as a part of, the proposed licensed business.

(c) An applicant who holds any interest, directly or indirectly, by ownership in fee, leasehold, mortgage, or otherwise, in the establishment, maintenance, operation, or promotion of the sale of motor vehicle fuel at the proposed location of, in conjunction with, or as a part of, the proposed licensed business.

(d) An applicant who holds any interest, directly or indirectly, through interlocking stock ownership in a corporation or through interlocking directors in a corporation engaged in the establishment, maintenance, operation, or promotion of the sale of motor vehicle fuel at the proposed location of, in conjunction with, or as a part of, the proposed licensed business.

(e) An applicant at any location at which motor vehicle fuel is sold or offered for sale by any person, whether or not the applicant has any interest or derives any profit from the sale.

(4) In determining the qualifications of an applicant for or the holder of a specially designated merchant license to own or operate motor vehicle fuel pumps on or adjacent to the licensed premises under the provisions of section 541(1) of 1998 PA 58, MCL 436.1541(1), the following shall apply:

(a) The minimum inventory required shall exclude alcoholic liquor, motor vehicle fuel, and any merchandise acquired on a consignment basis and not less than 60% of this inventory shall consist of goods and services which, in themselves, would qualify the applicant or licensee for licensure under subrule (1) of this rule.

(b) In the case of a department store, as defined in R 436.1001(e), the inventory attributable to that department which qualifies the business for licensure shall consist of not less than 60% of goods and services which, in themselves, would qualify the business for licensure under subrule (1) of this rule.

(c) The distance between the motor vehicle fuel pumps and the site of payment and selection of alcoholic liquor shall be determined by measuring from the motor vehicle fuel pump nearest the licensed premises to that part of the licensed premises nearest the motor vehicle fuel pumps.

(5) In a city, incorporated village, or township that has a population of 3,000 or fewer people, the commission may, in its discretion, waive the provisions of subrules (1), (2), and (3) of this rule if the applicant for a license has and maintains a minimum inventory on the premises, excluding alcoholic liquor, of not less than \$10,000.00, at cost, of the goods and services customarily marketed by approved types of businesses. The commission shall accept the means prescribed in R 436.1141(1) as a method for determining the population of a city, incorporated village, or township.

(6) In a township which is comprised of 72 square miles or more and which has a population of 7,500 or fewer people, the commission may, in its discretion, waive the provisions of subrule (3) of this rule if the applicant for a license has and maintains a minimum inventory on the premises, excluding alcoholic liquor, of not less than \$10,000.00, at cost, of the goods and services customarily marketed by approved types of businesses.

(7) The commission shall not issue a specially designated merchant license to an applicant who operates a drive-in or drive-through establishment and shall not allow an applicant who operates a drive-in or drive-through establishment to change the nature of an existing business that has a specially designated merchant license.

(8) The commission shall not issue a specially designated merchant license to an applicant who operates a drive-up or walk-up window for the sale of alcoholic liquor at the proposed location and shall not allow a person who holds a specially designated merchant license to change the nature of the existing licensed business to include a drive-up or walk-up window which permits the sale of alcoholic liquor through the drive-up or walk-up window.

(9) This rule does not apply to the renewal of an existing specially designated merchant license that is in operation before the effective date of this rule and does not apply to a new specially designated merchant license or the transfer of location of a specially designated merchant license conditionally approved by the commission before the effective date of this rule.

History: 1979 AC; 1985 AACS; 1998-2000 AACS; 2004 AACS; 2005 AACS.

#### **R 436.1131 Rescinded.**

History: 1979 AC; 1998-2000 AACS.

#### **R 436.1133 SDD license; prohibited issuance or transfer.**

Rule 33. An application for a new specially designated distributor license or for the transfer of location of an existing specially designated distributor license shall not be approved by the commission if there is an existing specially designated distributor license located within 2,640 feet of the proposed site. The method of measurement shall be as prescribed in section 503 of 1998 PA 58, MCL 436.1503. This rule may be waived by the commission for any of the following reasons:

(a) If the existing specially designated distributor has purchased less than \$10,000.00 in spirits from the commission during the last full calendar year.

(b) If the existing specially designated distributor has a B-hotel or A-hotel license.

(c) If the proposed location and the existing specially designated distributor's licensed establishment are separated by a major thoroughfare of not less than 4 lanes of traffic.

(d) If the proposed licensed establishment is located in a neighborhood shopping center which does not have an existing specially designated distributor's licensed establishment and if the proposed licensed establishment is located not less than

1,000 feet from any existing specially designated distributor's licensed establishment. The method of measurement shall be as prescribed in section 503 of 1998 PA 58, MCL 436.1503.

(e) If an existing specially designated distributor licensee is located within 2,640 feet of 1 or more existing specially designated distributor licensees and requests a transfer of location, which location is within 2,640 feet of the same existing specially designated distributor licensee or licensees, upon a showing of good cause by the licensee who is requesting the transfer of location.

History: 1979 AC; 2004 AACS.

**R 436.1135 Specially designated distributor license; limitations upon issuance or transfer; waiver; applicability.**

Rule 35. (1) For the issuance of a new, or the transfer of location of an existing, specially designated distributor license, all of the following are approved types of businesses:

- (a) A grocery store.
- (b) A convenience food store.
- (c) A food specialty store.
- (d) A meat market.
- (e) A delicatessen.
- (f) A drugstore.
- (g) A patent medicine store.
- (h) A tobacconist that is in compliance with subrule (3)(e) of this rule.
- (i) A department store that includes 1 or more of the stores listed in subdivisions (a) to (h) of this subrule.
- (j) A hotel.

(2) The commission shall not issue a new, or transfer location of an existing, specially designated distributor license to an applicant operating an approved type of business who also holds, or a partner or stockholder of the applicant who holds, an interest, directly or indirectly, in a nonapproved type of business on, or contiguous to, the proposed licensed premises, unless 60% or more of the combined monthly gross sales of the approved and nonapproved businesses are of goods and services customarily marketed by the approved type of business. For the purposes of this subrule, combined monthly gross sales are exclusive of all taxes collected by a retailer on sales and are computed for an accounting period of not less than 180 consecutive days. The commission may approve an application under this rule subject to the condition that the applicant shall demonstrate compliance with this subrule at the end of the 180-day accounting period. The commission shall cancel the license if the licensee has failed to comply with the provisions of this subrule at the end of the 180-day accounting period.

(3) The commission shall not issue a specially designated distributor license to any of the following entities and shall not allow any of the following entities to change the nature of an existing business that has a specially designated distributor license:

(a) An applicant who owns motor vehicle fuel pumps which are at the same location as, which are operated in conjunction with, or which are a part of, the proposed licensed business.

(b) An applicant who holds any financial interest, directly or indirectly, in the establishment, maintenance, operation, or promotion of the sale of motor vehicle fuel at the proposed location of, in conjunction with, or as a part of, the proposed licensed business.

(c) An applicant who holds any interest, directly or indirectly, by ownership in fee, leasehold, mortgage, or otherwise, in the establishment, maintenance, operation, or promotion of the sale of motor vehicle fuel at the proposed location of, or in conjunction with, or as a part of, the proposed licensed business.

(d) An applicant who holds any interest, directly or indirectly, through interlocking stock ownership in a corporation or through interlocking directors in a corporation engaged in the establishment, maintenance, operation, or promotion of the sale of motor vehicle fuel at the proposed location of, in conjunction with, or as a part of, the proposed licensed business.

(e) An applicant at any location at which motor vehicle fuel is sold or offered for sale by any person, whether or not the applicant has any interest or derives any profit from the sale.

(4) In determining the qualifications of an applicant for or the holder of a specially designated distributor license to own or operate motor vehicle fuel pumps on or adjacent to the licensed premises under the provisions of section 541(1) of 1998 PA 58, MCL 436.1541(1), the following shall apply:

(a) The minimum inventory required shall exclude alcoholic liquor, motor vehicle fuel, and any merchandise acquired on a consignment basis and not less than 60% of this inventory shall consist of goods and services which, in themselves, would qualify the applicant or licensee for licensure under subrule (1) of this rule.

(b) In the case of a department store, as defined in R 436.1001(e), the inventory attributable to that department which qualifies the business for licensure shall consist of not less than 60% of goods and services which, in themselves, would qualify the business for licensure under subrule (1) of this rule.

(c) The distance between the motor vehicle fuel pumps and the site of payment and selection of alcoholic liquor shall be determined by measuring from the motor vehicle fuel pump nearest the licensed premises to that part of the licensed premises nearest the motor vehicle fuel pumps.

(5) In a city, incorporated village, or township that has a population of 3,000 or fewer people, the commission may, in its discretion, waive the provisions of subrules (1), (2) and (3) of this rule if the applicant for a license has and maintains a minimum inventory on the premises, excluding alcoholic liquor, of not less than \$12,500.00, at cost, of the goods and services customarily marketed by approved types of businesses. The commission shall accept the means prescribed in R 436.1141(1) as a method for determining the population of a city, incorporated village, or township.

(6) In a township which is comprised of 72 square miles or more and which has a population of 7,500 or fewer people, the commission may waive the provisions of subrule (3) of this rule if the applicant for a license has and maintains a minimum inventory on the premises, excluding alcoholic liquor, of

not less than \$12,500.00, at cost, of the goods and services customarily marketed by approved types of businesses. The commission shall accept the means prescribed in R 436.1141(1) as the method for determining the population of a township.

(7) Subrules (1), (2), (3), (4), (5), and (10) of this rule do not apply to the renewal of an existing specially designated distributor license in operation before the effective date of this rule and do not apply to a new specially designated distributor license or the transfer of location of a specially designated distributor license conditionally approved by the commission before the effective date of this rule.

(8) The commission shall not approve the transfer of location of a specially designated distributor license outside the governmental unit for which it was issued, except upon a showing of good cause by the applicant.

(9) Upon a showing of good cause by the applicant, the commission may waive the quota restrictions of R 436.1141 if all of the following conditions are met:

(a) The applicant is in a city, incorporated village, or township that has a population of 3,000 or fewer people. The commission shall accept the means prescribed in R 436.1141(1) as a method for determining the population of a city, incorporated village, or township.

(b) The only existing specially designated distributor license is held in conjunction with a class A or class B hotel license.

(c) The commission may grant only 1 waiver of quota restrictions in a city, incorporated village, or township.

(10) The commission shall not issue a specially designated distributor license to an applicant who operates a drive-in or drive-through establishment and shall not allow the applicant to change the nature of an existing business that has a specially designated distributor license.

(11) The commission shall not issue a specially designated distributor license to an applicant who operates a drive-up or walk-up window for the sale of alcoholic liquor at the proposed location and shall not allow a person who holds a specially designated distributor license to change the nature of the existing licensed business to include a drive-up or walk-up window which permits the sale of alcoholic liquor through the drive-up or walk-up window.

History: 1979 AC; 1985 AACS; 1998-2000 AACS; 2004 AACS; 2005 AACS.

#### **R 436.1137 SDD license; photographs.**

Rule 37. An applicant for a specially designated distributor license shall submit 2 pictures, measuring 5 inches by 7 inches, to the commission if the application is for a completed building. One picture shall show the interior of the proposed licensed establishment and 1 picture shall show the exterior of the proposed licensed establishment.

History: 1979 AC.

#### **R 436.1139 SDD license; initial minimum purchase.**

Rule 39. An applicant for a new specially designated distributor license shall agree to purchase an initial minimum order of \$5,000.00 of spirits divided among not less than 50 brands as a condition precedent to receiving a license.

History: 1979 AC.

**R 436.1141 SDD license; population requirement.**

Rule 41. (1) In cities, incorporated villages, or townships, only 1 specially designated distributor license shall be issued by the commission for every 3,000 population, or fraction thereof. The commission shall accept any 1 of the following means of determining the population of a city, incorporated village, or township:

(a) Federal decennial census.

(b) Special census taken pursuant to section 6 of Act No. 279 of the Public Acts of 1909, being S117.6 of the Michigan Compiled Laws.

(c) Special census taken pursuant to section 7 of Act No. 245 of the Public Acts of 1975, being S141.907 of the Michigan Compiled Laws.

(d) Latest population estimates and projections prepared by the United States department of commerce, social and economic statistics administration, bureau of the census.

(2) The quota requirement may be waived at the discretion of the commission if there is no existing specially designated distributor licensee within 2 miles, measured along the nearest traffic route, of the applicant.

History: 1979 AC.

**R 436.1142 SDD license; limitation on applications.**

Rule 42. (1) The commission shall not process an application for a new specially designated distributor license in any governmental unit in which the number of applications already under consideration by the commission equals or exceeds the number of new licenses available pursuant to the quota provisions of R 436.1141(1).

(2) The commission shall maintain a record for each governmental unit of each person who has made an application for a new specially designated distributor license, but whose application was not processed pursuant to the provisions of subrule (1) of this rule.

(3) When all applications for a new specially designated distributor license in any governmental unit have been disposed of by the commission and 1 or more new specially designated distributor licenses are still available, the commission shall provide written notification of the license availability to each person who has made an application for a new specially designated distributor license within that governmental unit, but whose application was not processed pursuant to the provisions of subrule (1) of this rule. Such notification shall be made by mail to the last known address of the person which appears in the commission's records. Within 30 days of the date of mailing of such a notification, a person shall notify the commission, in writing, and pay the required inspection fee if he or she is still interested in obtaining a new specially designated distributor license. A person who

does not respond within the 30-day period shall not be given consideration for any

available license. If at the end of the 30-day period the number of persons who have notified the commission of their desire to be considered for new specially designated distributor licenses within the governmental unit equals or exceeds the number of licenses available, pursuant to the provisions of subrule (1) of this rule any additional applications received shall not be processed.

(4) When an application for a new specially designated distributor license is received by the commission for a location in a governmental unit in which new specially designated distributor licenses are not available because the quota established by the provisions of R 436.1141(1) has been filled, the commission shall notify the applicant that licenses are not available.

(5) The commission shall maintain a record for each governmental unit of each person who has made an application for a new specially designated distributor license, but whose application was not processed pursuant to the provisions of subrule (4) of this rule.

(6) When 1 or more specially designated distributor licenses becomes available in a governmental unit in which the quota established by the provisions of R 436.1141(1) had previously been filled, the commission shall provide written notification to each person who applied for a new specially designated distributor license within that governmental unit, but whose application was not processed pursuant to the quota provisions of R 436.1141(1). Within 30 days of the date of mailing of such a notification, a person shall notify the commission, in writing, and pay the required inspection fee if he or she is still interested in obtaining a new specially designated distributor license. A person who does not respond within the 30-day period shall not be given consideration for any available license. If at the end of the 30-day period the number of persons who have notified the commission of their desire to be considered for new specially designated distributor licenses within the governmental

unit equals or exceeds the number of licenses available, pursuant to the provisions of subrule (1) of this rule, any additional applications received shall not be processed.

(7) For purposes of determining the order in which initial applications for new specially designated distributor licenses are submitted to the commission as required by the provisions of R 436.1105(2)(f), the commission shall use the date on which a person first applied for the license, even if the application was not processed at that time due to the provisions of subrule (1) or (4) of this rule.

History: 1990 AACCS.

#### **R 436.1143 SDD license; transfer of location.**

Rule 43. An applicant who requests a transfer of location of an existing specially designated distributor license into an area in which there are applications for new specially designated distributor licenses on file with the commission shall not be given priority if the proposed transfer of location is within 2,640 feet of the location of the



establishments proposed by the new applicants. The method of measurement shall be as prescribed in section 503 of 1998 PA 58, MCL 436.1503.

History: 1979 AC; 2004 AACs.

**R 436.1145 Watercraft license; minimum qualifications.**

Rule 45. An applicant for a watercraft license shall meet all of the following minimum qualifications before being granted a license:

(a) The watercraft shall have a current certificate of inspection issued by either the state waterways commission or the United States coast guard under title 46 of the United States Code.

(b) The watercraft carries paying passengers on regularly scheduled routes between predetermined geographical points.

(c) The license shall only be used to service paying passengers on regularly scheduled routes between predetermined geographical points.

History: 1979 AC.

**R 436.1147 Aircraft license; minimum qualifications.**

Rule 47. An applicant for an aircraft license shall meet all of the following minimum qualifications before being granted a license:

(a) The aircraft shall be approved by the civil aeronautics board for carrying paying passengers on regularly scheduled routes or on charter routes, and shall be in excess of 12,500 pounds gross weight.

(b) The license shall only be used to service paying passengers on regularly scheduled routes or chartered routes between predetermined geographical points.

History: 1979 AC.

**R 436.1149 Class C or SDD license; hardship transfer.**

Rule 49. (1) The commission shall not consent to a hardship transfer of class C or specially designated distributor licenses under section 501(2) of 1998 PA 58, MCL 436.1501(2) if the hardship shown by the licensee existed when the license was issued, except upon a showing of good cause.

(2) A person who has been granted approval for a hardship transfer of class C or specially designated distributor licenses under section 501(2) of 1998 PA 58, MCL 436.1501(2) shall be prohibited from holding such classes of licenses for a period of 5 years thereafter, as either an individual, partner, or stockholder, except upon a showing of good cause.

History: 1979 AC; 2004 AACs.

**R 436.1151 Rescinded.**

History: 1979 AC; 1985 AACSB.