

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

LIQUOR CONTROL COMMISSION

GENERAL RULES

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

R 436.1001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means 1998 P.A. 58, MCL 436.1101 et seq.

(b) "Broker" means a person, other than an individual, who is licensed by the commission and who is employed or otherwise retained by any of the following entities to sell, promote, or otherwise assist in the sale or promotion of alcoholic liquor:

(i) A manufacturer.

(ii) A vendor of spirits.

(iii) An outstate seller of beer.

(iv) An outstate seller of wine.

(v) An outstate seller of mixed spirit drink.

(vi) A manufacturer of mixed spirit drink.

(vii) A wholesaler.

(c) "Co-licensee" means 1 of 2 or more persons whose names appear on any single license issued by the commission, except for a person whose name appears on the license in a fiduciary capacity. All co-licensees on a single license are considered a partnership for purposes of the act and these rules.

(d) "Cooperative advertising" means a joint effort between licensees or vendors of spirits to advertise alcoholic liquor.

(e) "Department store" means a retail store that has all of the following:

(i) More than 15,000 square feet.

(ii) A minimum of 4 separate and distinct major departments that include at least 1 of the stores listed in R 436.1129(1)(a) to (g).

(iii) A minimum inventory of \$250,000.00, at cost.

(f) "Drive-in" or "drive-through" means an establishment that allows the sale of alcoholic liquor to a retail customer through a service window or similar aperture without requiring the retail customer to exit his or her vehicle to make the purchase and includes an establishment that allows the retail customer to drive in or through any enclosed building or structure and make a purchase of alcoholic liquor without requiring the retail customer to exit his or her vehicle.

(g) "Drive-up or walk-up window" means a service window, door, or other aperture through which a customer may purchase merchandise without that customer entering the licensed premises.

(h) "Driver helper" means a person who is not less than 18 years of age and who accompanies and assists, and who may only accompany and assist, a licensed salesperson in delivering alcoholic liquor to a retail licensee.

(i) "Licensed premises" means any portion of a building, structure, room, or enclosure on real estate that is owned, leased, used, controlled, or operated by a licensee in the conduct of the business at the location for which the licensee is licensed by the commission, except when otherwise specified by commission rule or written commission order.

(j) "Licensee" means the person to whom a license is issued by the commission to manufacture, sell, import, warehouse, deliver, or promote, or otherwise assist in the sale of, alcoholic liquor.

(k) "Major thoroughfare" means a street or highway which is primarily for through traffic and which has not less than 4 lanes of traffic, excluding any lanes that are used primarily for turning purposes and any lanes in which parking is allowed at any time.

(l) "Neighborhood shopping center" means 1 commercial establishment, or a group of commercial establishments organized or operated as a unit, which is related in location, size, and type of shop to the trade area that the unit serves, which provides not less than 50,000 square feet of gross leasable

retail space, and which provides 5 private off-street parking spaces for each 1,000 square feet of gross leasable retail space.

(m) "Off-premises licensee" means a person who is licensed by the commission to sell alcoholic liquor at retail for consumption off the licensed premises.

(n) "On-premises licensee" means a person who is licensed by the commission to sell alcoholic liquor at retail for consumption on the licensed premises.

(o) "Permit" means a contract between the commission and a licensee granting authority to the licensee to perform the functions defined in the act or commission rules for a specific permit.

(p) "Privately held corporation" means a corporation that does not trade its stock on a stock exchange or in over-the-counter transactions. A subsidiary of a corporation that trades its stock on a stock exchange or in over-the-counter transactions is not a privately held corporation.

(q) "Public room" means a room that is open for use by the general public for eating, drinking, or amusement. "Public room" does not mean any of the following:

- (i) A restroom.
- (ii) A kitchen.
- (iii) A storage room.
- (iv) An office.
- (v) A boiler room.
- (vi) A hallway.
- (vii) A landing.
- (viii) A stairway.
- (ix) An elevator.
- (x) A dance floor.
- (xi) A stage.
- (xii) An area similar to the areas specified in this subdivision.

(r) "Release" means a document in which written permission is granted by the commission to ship alcoholic liquor into this state.

(s) "Salesperson" means a person who is employed by any of the following entities and who is licensed by the commission to sell, deliver, or promote, or otherwise assist in the sale of, alcoholic liquor in this state:

- (i) A vendor of spirits.
- (ii) A broker.
- (iii) A manufacturer of beer or wine.
- (iv) An outstate seller of beer or wine.
- (v) A wholesaler.

(t) "Sample of alcoholic liquor" means a container which bears the word "sample" and which is not more than 1 liter or 33.82 United States fluid ounces. If a product is not available in a container of 1 liter or less, then the next larger size may be substituted. However, a container shall not be more than 3 liters.

(u) "Sports/entertainment venue" means a facility which is licensed to sell alcoholic liquor for on-premises consumption, which has a seating capacity of 4,500 or more, which is primarily used for sporting events or other entertainment, and which is not located on the campus of a 2- or 4-year college or university.

(v) "Temporary bin display" means a freestanding device which is constructed of any material that is used for the exhibition of beer, wine, or spirits on the premises of a retail licensee who is licensed for off-premises sales only and which must be removed from the retail licensed premises not later than 120 days after installation.

(w) "Vendor of spirits" means a person who sells spirits to the commission.

(x) "Vendor representative" means a person who is licensed by the commission and who is authorized by a manufacturer of beer or wine, an outstate seller of beer or wine, or a vendor of spirits to represent the respective employer or principal in transactions with the commission.

(2) Terms defined in the act have the same meanings when used in these rules.

(3) Terms defined in the act and these rules have the same meanings when used in rules previously or hereafter promulgated by the commission.

History: 1979 AC; 1982 AACS; 1984 AACS; 1985 AACS; 1986 AACS; 1987 AACS; 1994 AACS; 1998-2000 AACS; 2003 AACS.

R 436.1003 Building and health laws, rules, and ordinances.

Rule 3. A licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules, and ordinances as determined by the state and local law enforcement officials who have jurisdiction over the licensee.

History: 1979 AC.

R 436.1005 Rescinded.

History: 1979 AC; 2011 AACS.

R 436.1007 Records; maintenance.

Rule 7. (1) A licensee shall maintain accurate records of alcoholic liquor purchases and sales.

(2) A licensee shall maintain records sufficient to determine ownership of the licensed business and to whom the profits or losses of the business accrue.

(3) The records required by this rule shall be maintained for a 4-year period of time.

History: 1979 AC.

R 436.1009 Rescinded.

History: 1979 AC; 2011 AACS.

R 436.1011 Prohibited conduct of licensees, agents, or employees.

Rule 11. (1) The clerk, servant, agent, or employee of a licensee shall not engage in an illegal occupation or illegal act on the licensed premises. A certified copy of a conviction is prima facie evidence of a violation.

(2) A licensee, an officer of a licensed corporation, a stockholder of a privately held corporation, or a member or manager of a limited liability company shall not, on or off its licensed premises, commit any of the following:

(a) A felony.

(b) A crime involving the excessive use of alcoholic liquor.

(c) A crime involving gambling, prostitution, weapons, violence, tax evasion, fraudulent activity, or controlled substances.

(d) A misdemeanor that impairs, or may impair, the ability of the person to operate the licensed business in a safe and competent manner.

(e) Any of the offenses specified in this subrule which results in sentencing after a plea of nolo contendere and for which the licensee is subject to the penalties in section 903 of the act. A certified copy of a conviction is prima facie evidence of a violation.

(3) The provisions of subrules (1) and (2) of this rule apply to the person, the officer of a corporate entity, the stockholder of a privately held corporate entity, or the member or manager of a limited liability entity of the person named as a participant on the licensee's participation permit.

(4) A licensee, or the clerk, servant, agent, or employee of the licensee, shall not hinder or obstruct a law enforcement officer or commission inspector or investigator in the course of making an investigation or inspection of the premises and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or a commission inspector or investigator in the performance of his or her duties to enforce the act or commission rules.

(5) A licensee, or the clerk, servant, agent, or employee of a licensee, shall not impersonate a commission employee, a commission investigator, or a law enforcement officer empowered to enforce the act or commission rules.

(6) A licensee, or the clerk, servant, agent, or employee of the licensee, shall not do any of the following:

(a) Allow, on the licensed premises, the annoying or molesting of customers or employees by other customers or employees.

(b) Knowingly allow the licensed premises to be used by any person for the purposes of accosting or soliciting another person to commit prostitution.

(c) Allow, on the licensed premises, fights, brawls, or the improper use of firearms, knives, or other weapons.

(d) Allow the sale, possession, or consumption on the licensed premises of any controlled substances that are prohibited by 1978 P.A. 368, MCL 333.1101 et seq.

(e) Allow narcotics paraphernalia to be used, stored, exchanged, or sold on the licensed premises.

(7) A retail licensee shall not sell any alcoholic liquor off the licensed premises, except as follows:

(a) An on-premises licensee may provide out-of-doors service if done in accord with the provisions of R 436.1419.

(b) An off-premises licensee may deliver a preordered quantity of alcoholic liquor to a customer; however, the licensee shall not make a delivery to a customer on the campus of a 2- or 4-year college or university, unless the customer is licensed by the commission.

(c) An off-premises licensee may provide out-of-doors service if done in accord with the provisions of R 436.1521.

History: 1979 AC; 1983 AACCS; 1985 AACCS; 1986 AACCS 1986; 1995 AACCS; 1998-2000 AACCS; 2003 AACCS.

R 436.1013 Rescinded.

History: 1979 AC; 2011 AACCS.

R 436.1015 Display of license and permit.

Rule 15. (1) Licenses issued by the commission shall be signed by the licensee, shall be framed under a transparent material, and shall be prominently displayed in the licensed premises.

(2) Permits issued by the commission to a licensee shall be framed under a transparent material and shall be prominently displayed in the licensed premises adjacent to the liquor license.

History: 1979 AC.

R 436.1017 Rescinded.

History: 1979 AC; 2011 AACCS.

R 436.1019 Contests.

Rule 19. A licensee shall not participate in or sponsor any contest that requires the use or consumption of alcoholic liquor or features alcoholic liquor as a prize in connection with a contest.

History: 1979 AC.

R 436.1021 Sale to licensed truck driver salesman.

Rule 21. A licensee shall not knowingly sell, give, or furnish alcoholic liquor to a licensed truck driver salesman who is employed by a licensee while the truck driver is on duty or in the course of employment.

History: 1979 AC.

R 436.1023 Transfer of location of licensed premises; alteration of premises; lease, sale, or transfer of premises.

Rule 23. (1) A licensee shall not transfer the location of the licensed premises without the prior written approval of the commission.

(2) A licensee shall not, without the prior written approval of the commission, do any of the following:

(a) Make an alteration in the size of the physical structure of the licensed premises.

(b) Add or drop any space to or from the physical structure of the licensed premises.

(c) If the licensee holds a class C or B hotel license, install any additional bars.

(3) A licensee shall not lease, sell, or transfer possession of a portion of the licensed premises without the prior written approval of the commission.

History: 1979 AC; 1998-2000 AACCS.

R 436.1025 Storing of alcoholic liquor.

Rule 25. A licensee shall not allow alcoholic liquor to be kept or stored off the licensed premises, except upon prior written order of the commission.

History: 1979 AC.

R 436.1027 Confiscation and impoundment of alcoholic liquor.

Rule 27. (1) A commission inspector or investigator or a law enforcement officer may seize suspected adulterated alcoholic liquor for analytical purposes.

(2) A commission inspector or investigator or a law enforcement officer may confiscate or impound alcoholic liquor which does not comply with the act or commission rules.

(3) A commission inspector or investigator may impound alcoholic liquor which is damaged by fire, water, chemicals, smoke, floods, explosion, freezing, sewage, or other causes affecting quality or merchantable value. Once impounded, damaged alcoholic liquor shall not be used, sold, moved, or destroyed without the prior written approval of the commission.

History: 1979 AC.

R 436.1029 Orders of commission.

Rule 29. A licensee shall not fail, refuse, or neglect to obey any written order of the commission or an individual commissioner issued relative to the operation of his or her licensed establishment.

History: 1979 AC.

R 436.1031 Sales prohibited during periods of suspension; notice of suspension.

Rule 31. (1) A licensee shall not sell, offer for sale, furnish, consume, or allow the consumption of, alcoholic liquor on the licensed premises during the period that the license is suspended by the commission or an individual commissioner.

(2) During the time of suspension of a license by the commission, the notice of the suspension shall be continuously posted in a conspicuous place on the licensed premises in full view of the public.

History: 1979 AC.

R 436.1033 Rescinded.

History: 1979 AC; 2011 AACS.

R 436.1035 Aid or assistance by or to licensee prohibited; exception.

Rule 35. A licensee or vendor of spirits shall not aid or assist any other licensee by gift or loan of money or property of any description or other valuable thing or by giving premiums or rebates; and it is unlawful for any licensee or vendor of spirits to accept the same, except as provided in R 436.1045, R 436.1317, and R 436.1321.

History: 1979 AC.

R 436.1037 Rescinded.

History: 1979 ACS 4, Eff. Feb. 3, 1981; rescinded 2003 MR 10, Eff. May 30, 2003.

R 436.1039 Living quarters in connection with licensed premises.

Rule 39. (1) A licensee shall not have an inside connection between the licensed premises and an unlicensed portion of the same building or another building without the prior written approval of the commission.

(2) A licensee, except for a hotel or club licensee, shall not have living quarters connected with the licensed premises, unless a living quarters permit is granted by the commission.

(3) If a living quarters permit is granted by the commission to a licensee, alterations shall not be made in the connections between the living quarters and the licensed premises, unless written permission is granted by the commission.

History: 1979 AC.

R 436.1041 Obtaining a license for use or benefit of another.

Rule 41. (1) A licensee or an applicant for a license shall not obtain or attempt to obtain a license for the use or benefit of another person whose name does not appear on the license. In addition, a licensee shall not allow a person whose name does not appear on the license to use or benefit from the license.

(2) The provisions of subrule (1) of this rule do not apply to a participating agreement where the commission approves the participating agreement after a showing of good cause by the on-premise licensee or where a person not licensed by the commission receives 10% or less of the gross sales of the licensed business.

(3) The provisions of subrule (1) of this rule do not apply to persons approved by the commission and named on a participation permit issued to the licensee. Upon written request of the licensee, the commission may issue a participation permit to a licensee who meets all of the following qualifications:

(a) The non-licensed person who receives use or benefit from the licensee's license or who receives gross or net profits from a licensed business shall meet the same qualifications as a licensee as prescribed by R 436.1101 ET SEQ.

(b) The licensee makes application and either cancels an existing participation permit or receives a new participation permit before adding or deleting any participating non-licensed person. For the purposes of this subrule, the addition or deletion of a participant includes any of the following:

(i) Transfer or transfer of interest from 1 person to another.

(ii) The transfer in the aggregate to another person during any single licensing year of more than 10% of the outstanding stock of a corporate participant.

(iii) The transfer of more than 10% of the total interest in a participant which is a partnership.

(iv) The transfer of more than 10% in the aggregate of the membership of a limited liability company.

History: 1979 AC; 2003 AACS.

Editor's Note: An obvious error in R 436.1041 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Michigan Register, 2003 MR 10. The memorandum requesting the correction was published in Michigan Register, 2003 MR 14.

R 436.1043 Liquor analysis.

Rule 43. (1) A brand of alcoholic liquor that is not presently merchandised in this state shall not be sold, offered for sale, or introduced into this state without being analyzed by the commission, or its duly authorized agent, and without being approved for sale in this state by the commission.

(2) The commission, by written order, may waive the requirement that alcoholic liquor be analyzed.

(3) The commission may order random analysis of a brand of alcoholic liquor sold or offered for sale in this state.

History: 1979 AC.

R 436.1045 Dispensing equipment, furniture, or fixtures.

Rule 45. (1) A manufacturer, an outstate seller of beer or wine, or a wholesaler shall not sell, give, or otherwise furnish dispensing equipment, furniture, or fixtures to a retail licensee, except upon written order of the commission or as provided by R 436.1611(3).

(2) A retail licensee shall not purchase, receive, or otherwise accept dispensing equipment or components, furniture, or fixtures from a manufacturer, an outstate seller of beer or wine, or a wholesaler, except upon written order of the commission or as provided by R 436.1611(3).

(3) A manufacturer, wholesaler, or retail licensee who sells alcoholic liquor to a special licensee may provide the special licensee with draft beer-dispensing equipment or cooling equipment for use by the special licensee during the effective period of the special license.

(4) A licensee shall not allow, on the licensed premises, any vending machine, whether or not operated by coin or currency, that dispenses a type of alcoholic liquor directly to a customer. This subrule does not apply to a dispensing machine, which is commonly known as an "in-room bar device", whether or not operated by coin or currency, and which is located in the bedrooms or suites of licensed hotels.

History: 1979 AC; 1992 AACS; 1998-2000 AACS.

R 436.1047 Return of licenses and permits.

Rule 47. A licensee who ceases active operation of the licensed business for a period of more than 30 days shall return all current licenses and permits to the commission.

History: 1979 AC.

R 436.1049 Transfer of license or corporate stock while an alleged violation is pending final disposition.

Rule 49. (1) If the licensee has been cited in a violation report, a transfer of a license shall not be completed before final disposition of the alleged violation.

(2) If the licensee has been cited in a violation report, a transfer of more than 10% in the aggregate of the stock of a licensed corporation or a transfer of 10% or more in the aggregate of the membership in a limited liability company shall not be completed before final disposition of the alleged violation.

(3) A licensee shall not transfer a license, transfer an interest in a license, or remove a license from escrow with the commission until that licensee has paid all outstanding fines, fees, or charges levied by the commission, except upon prior written order of the commission.

History: 1979 AC; 2003 AACCS.

R 436.1051 Notice of changes affecting control of privately held corporation.

Rule 51. (1) A privately held licensed corporation shall immediately notify the commission, in writing, of changes made in its officers or directors or of amendments made to the articles of incorporation.

(2) A limited liability company shall immediately notify the commission, in writing, of changes made in its managers or assignees or of amendments made to the articles of organization, operating agreement, or by-laws.

History: 1979 AC; 2003 AACCS.

R 436.1053 Proof of loss or destruction of a license or permit.

Rule 53. To prove the loss or destruction of a license or permit, a licensee shall make a written statement as to the loss or destruction and shall file it with the commission.

History: 1979 AC; 2000 AACCS.

R 436.1055 Sale of alcoholic liquor below cost prohibited; exception.

Rule 55. A retail licensee shall not sell alcoholic liquor to a customer for less than the cost of the alcoholic liquor to the retail licensee, except upon prior written commission order.

History: 1979 AC.

R 436.1057 Rescinded.

History: 1979 AC; 2003 AACCS.

R 436.1059 Dishonored payment.

Rule 59. A licensee, or the clerk, servant, agent, or employee of a licensee, shall not make payment to the commission or the state of Michigan by any means that will be dishonored by a financial institution for lack of sufficient funds or for any other reason.

History: 1979 AC; 2000 AACCS.

R 436.1060 Server training; requirements.

Rule 60. (1) As used in this rule, all terms and phrases shall have the same meaning as defined in section 906(1) of the act.

(2) If the commission conditionally approves the issuance of a license for the purpose of meeting the server training requirements of that approval, then the time period allowed for meeting the server training requirements shall commence on the date the license is issued.

(3) An administrator of a server training program approved by the commission shall administer a comprehensive examination to participants of the program, including individuals seeking certification as instructors within the program. The examination shall thoroughly test the individual's knowledge and competency in the curriculum topics required by section 906(6) of the act. The minimum passing grade for the examination, for instructor certification, and for all other participants in the program shall be not less than 70%, but shall be not less than 85% for instructors if administered the same examination as other participants in the program. Examinations administered in other than a written form must be approved by the commission. Examination may be proctored by someone other than a certified instructor of the server training program if the proctor is an agent of the administrator of the server training program and is acceptable to the commission.

(4) If server training or instructor training is conducted by the administrator of a server training program approved by the commission by means other than classroom training, then the alternative training method must first be approved by the commission.

(5) Certification issued by the administrator of an approved server training program for instructors and other participants shall expire not more than 3 years from the date of issuance.

(6) A licensee, for purposes of meeting the requirements of section 906(10) of the act, shall have employed or have present on the licensed premises on each shift and during all hours alcoholic liquor is served supervisory personnel who maintain active, unexpired server training certification or current recognition by a server training program approved by the commission.

History: 2003 AACCS.

R 436.1061 Grounds for suspension or revocation of a permit or privilege.

Rule 61. Any permit issued to a licensee by the commission or any privilege granted to a licensee by the commission may be revoked or suspended by the commission or a hearing commissioner, after due notice and proper hearing, if the licensee or the establishment no longer qualifies for the permit or the privilege or if the licensee is found to be in violation of the act or a commission rule which directly pertains to the permit issued or the privilege granted.

History: 1979 AC.

R 436.1062 Facsimile transmissions.

Rule 62. (1) The commission may accept documents and filings, including documents and filings requiring signature, by facsimile (fax) communication equipment, if the documents and filings are transmitted in accordance with this rule and in accordance with procedures for fax transmissions that the commission may establish.

(2) All documents and filings submitted under this rule shall be on 8½ inch x 11 inch standard paper and shall be legible.

(3) A special license, as defined in Section 111(10) of the act, may be transmitted by facsimile to the special licensee for use and display during the effective dates of the license for good cause shown.

(4) The commission may transmit a license or permit, other than a special license, to a licensee by facsimile for good cause shown if the facsimile copy of the license bears an expiration date that allows its use and display for a maximum of 5 business days after the actual license or permit is mailed to the licensee.

(5) The commission shall not transmit a license or permit by facsimile to a licensee unless all required documents have been received in the commission's Lansing office and all applicable fees for the license or permit have been paid.

(6) Documents and filings received by the commission under this rule after 4 p.m. are considered filed on the next business day.

(7) A cover sheet shall accompany any facsimile transmission to the commission.

The cover sheet shall include all of the following information:

(a) The name and telephone number of the sender.

(b) The title or description of the document or filing being transmitted.

(c) Any application or file number pertaining to the document or filing being transmitted.

(8) Notwithstanding subrule (1) of this rule, the commission may refuse to accept the facsimile transmission of a document the commission determines requires an original signature.

(9) A facsimile transmission accepted by the commission under this rule and certified by an agent of the commission is considered an original for all purposes and is admissible in evidence in like manner as an original.

History: 1998-2000 AACCS.

R 436.1063 Rescissions.

Rule 63. R 436.1 to R 436.4, R 436.6 to R 436.18, R 436.19(1) to R 436.41, R 436.51 to R 436.64, R 436.66 to R 436.67(2), R 436.69 to R 436.81, R 436.91 to R 436.126, R 436.544, R 436.601, R 436.1101, R 436.1301, R 436.1701, and R 436.1851 of the Michigan Administrative Code, appearing on pages 4484 to 4506, 4509, 4511, 4520, 4529, and 4538 of the 1979 Michigan Administrative Code, and pages 153 to 155 of Quarterly Supplement No. 1 to the 1979 Michigan Administrative Code, are rescinded.

History: 1979 AC.