

**MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)**  
**Act 58 of 1998**

CHAPTER 5

**436.1501 Licenses; issuance; fees; bonds or liability insurance; expiration of full-year license; license as contract; operation of establishment upon death of licensee; approval of receiver or trustee; part-year license; transfer of license; approval of application; request for revocation of license or permit by local legislative body; hotels; zones and anniversary dates for renewal of licenses; rules; nontransferable tavern licenses for concessionaires at state fairgrounds; notice contained in application.**

Sec. 501. (1) The commission may issue licenses as provided in this act upon the payment of the fees provided in section 525 and the filing of the bonds required in section 801 or liability insurance as provided in section 803. The commission shall provide a notification of the ability of the purchaser or transferee to obtain a tax clearance certificate, as provided in subsection (6). Subject to section 906(2) and (3), the commission shall not issue a new on premises license or transfer more than 50% interest in an existing on premises license unless the applicant or transferee offers proof acceptable to the commission that he or she has employed or has present on the licensed premises, at a minimum, supervisory personnel on each shift and during all hours in which alcoholic liquor is served who have successfully completed a server training program described in section 906. The commission may consider an individual enrolled and actively participating in a server training program as having successfully completed the program for the time the individual is participating. The commission may allow an applicant or a conditionally approved licensee at least 180 days, or more upon a showing of good cause, to meet the minimum personnel training requirements of this subsection. The commission may suspend the license of a conditionally approved licensee if that licensee does not comply with this subsection. The commission may waive the server training requirements of this subsection on the basis of either of the following circumstances:

(a) The licensee's responsible operating experience or training.

(b) The person's demonstration of an acceptable level of responsible operation either as a licensee during the preceding 3 years or as a manager with substantial experience in serving alcoholic liquor.

(2) A full-year license issued by the commission shall expire on April 30 following the date of issuance or the date fixed by the commission. A license issued under this act is a contract between the commission and the licensee and shall be signed by both parties. If a licensee dies, the commission may approve the operation of the establishment by a personal representative or independent personal representative duly appointed by a court of competent jurisdiction, pending the settlement of the estate of the deceased licensee. The commission may approve a receiver or trustee appointed by a court of competent jurisdiction to operate the licensed establishment of a licensee. The commission may grant a part-year license for a proportionate part of the license fee specified in section 525. In a resort area the commission shall grant a license for a period of time as short as 3 months. A license may be transferred with the consent of the commission. A class C or specially designated distributor license obtained in a manner other than by transfer shall not be transferred within 3 years after its issuance except under circumstances where the licensee clearly and convincingly demonstrates that unusual hardship will result if the transfer does not receive the consent of the commission. An application for a license to sell alcoholic liquor for consumption on the premises, except in a city having a population of 600,000 or more, shall be approved by the local legislative body in which the applicant's place of business is located before the license is granted by the commission, except that in the case of an application for renewal of an existing license, if an objection to a renewal has not been filed with the commission by the local legislative body not less than 30 days before the date of expiration of the license, the approval of the local legislative body is not required. The commission shall provide the local legislative body and the local chief of police with the name, home and business addresses, and home and business phone numbers to accomplish the local legislative reviews of new and transferred license applications required by this subsection. Upon request of the local legislative body after due notice and proper hearing by the local legislative body and the commission, the commission shall revoke the license of a licensee granted a license to sell alcoholic liquor for consumption on the premises or any permit held in conjunction with that license.

(3) A local legislative body, by resolution, may request that the commission revoke the license of a licensee granted a license to sell alcoholic liquor for consumption off the premises whose place of business is located within the local legislative body's jurisdiction and that has been determined in commission violation hearings to have sold or furnished alcoholic liquor, on at least 3 separate occasions in a consecutive 12-month period, to a minor if those violations did not involve the use of falsified or fraudulent identification by the minor. If the commission verifies that the licensee who is the subject of the resolution has been found to have

committed the violations as prescribed in this subsection, the commission may suspend or revoke the licensee's license and any permit held in conjunction with that license.

(4) This act does not prohibit a hotel that is or was the holder of a license authorizing the retail sale of alcoholic liquor for consumption on the premises from applying for and receiving under this act any other and different type of license authorizing the retail sale of alcoholic liquor for consumption on the premises, and the application for the license shall not be considered a new application for a license if the total number of public licenses for consumption on the premises does not exceed the authorized total established in this act and the sale of alcoholic liquor is approved by the electors. The commission may divide the state into 3 zones and establish for each zone an anniversary date for renewal of full-year retail licenses in the licensing year. The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the effective administration of the renewal of licenses.

(5) The commission, with the written approval of the department of agriculture and rural development for the Michigan state fairgrounds and the Upper Peninsula state fairgrounds, may issue without regard to the quota provision of section 531 a tavern license to a person as concessionaire leasing or renting a portion of either the Upper Peninsula state fairgrounds or the state fairgrounds, or both, to service the licensed area in use for recreational or exhibition purposes other than at the time of the annual Upper Peninsula state fair under section 2 of 1927 PA 89, MCL 285.142. A license issued under this subsection is not transferable.

(6) The application for initial licensure or for a transfer of a license shall contain a notice in substantial compliance with the following:

When purchasing a license, a buyer can be held liable for tax debts incurred by the previous owner. Prior to committing to the purchase of any license or establishment, the buyer should request a tax clearance certificate from the seller that indicates that all taxes have been paid up to the date of issuance. Obtaining sound professional assistance from an attorney or accountant can be helpful to identify and avoid any pitfalls and hidden liabilities when buying even a portion of a business.

Sellers can make a request for the tax clearance certificate through the Michigan department of treasury.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998;—Am. 2000, Act 431, Imd. Eff. Jan. 9, 2001;—Am. 2006, Act 547, Imd. Eff. Dec. 29, 2006;—Am. 2012, Act 82, Imd. Eff. Apr. 11, 2012.

#### **436.1503 Licenses; proximity of contemplated location to church or school building; measurement of distance; exceptions; waiver; objection; hearing; transfer to location farther from church or school.**

Sec. 503. (1) A new application for a license to sell alcoholic beverages at retail, or a request to transfer location of an existing license, shall be denied if the contemplated location is within 500 feet of a church or a school building. The distance between the church or school building and the contemplated location shall be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the church or school building nearest to the contemplated location and from the part of the contemplated location nearest to the church or school building.

(2) This section does not apply to specially designated merchants not in conjunction with on the premise licenses.

(3) This section does not apply to an outstanding license issued before March 1, 1949, for a location within the aforesaid distance or to the renewal or transfer of the outstanding license at that location, or to a resort license in effect during the 1948-1949 licensing year, or to the renewal or transfer of the resort at that location or to an application for a license at that location which has been approved by the commission before March 1, 1949, and licenses so issued, renewed, transferred, or approved shall be conclusively presumed to be valid for purposes of this section only.

(4) The commission may waive this section in the case of other classes of licenses. If an objection is not filed by the church or school, the commission may issue the license pursuant to this act. If an objection is filed, the commission shall hold a hearing pursuant to rules established by the commission before making a decision on the issuance of the license.

(5) This section shall not be construed to prevent the transfer of a license to a location farther from a church or school, if the license to be transferred is within the 500-foot radius.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**Administrative rules:** R 436.1951 et seq. and R 436.1963 of the Michigan Administrative Code.

**436.1505 Class “C” or class “B” hotel license; state-owned airport; nontransferable.**

Sec. 505. Notwithstanding section 501, the commission, with the approval of the bureau of aeronautics, may issue without regard to the quota provision of section 531, not more than 1 class C or class B hotel license for each state-owned airport serviced by scheduled commercial passenger airlines. Such license shall not be transferable.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1507 Liquor licenses; publicly owned airports; issuance.**

Sec. 507. The commission may issue, without regard to the quota provisions of section 531, licenses to the owner or lessee, or both, to sell alcoholic beverages for consumption on the premises of buildings in the passenger terminal complex of each publicly owned airport that is served by scheduled commercial passenger airlines certificated to enplane and deplane passengers on a scheduled basis by the federal aviation agency or the civil aeronautics board. A license issued under this section is not transferable.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1509 Liquor licenses; municipal civic center or civic auditorium; conditions and limitations.**

Sec. 509. The commission may issue, without regard to the quota provisions of section 531, licenses to a commission, board, or authority, governing or operating any municipal civic center or civic auditorium or to 1 or more of its concessionaires, or to both, if the center or auditorium is within a city or township having a population of not less than 9,500, if the center or auditorium is owned and operated as a municipal enterprise and if the legislative body of the municipality first authorizes the operating authority of the civic center or civic auditorium or its concessionaire to apply to the commission for a license. Licenses issued under this section shall not be transferable, shall not be issued to an educational institution or for a facility operated in connection with an educational institution, and shall authorize the sale of alcoholic liquor only in connection with a scheduled event at the licensed premises.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1511 Class “C” or class “B” hotel license for hotel located within Mackinac Island state park; class “C” license for certain concessionaire; license for sale of alcoholic liquor at Presque Isle harbor marina; nontransferability of license.**

Sec. 511. (1) Notwithstanding section 501, the commission may issue the following licenses without regard to the quota provisions of section 531:

(a) With the approval of the Mackinac Island state park commission, not more than 1 class C or class B hotel license for each hotel which is located within the Mackinac Island state park and is owned by the Mackinac Island state park commission and not more than 1 class C license to a concessionaire of the Mackinac Island state park commission who operates a restaurant located within Fort Mackinac.

(b) A license for the sale of alcoholic liquor for consumption on or off the premises at the Presque Isle harbor marina.

(2) A license issued under this section is not transferable as to ownership or location.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**Compiler's note:** For transfer of Mackinac Island state park commission from department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

**436.1513 Licenses; issuance to governing board of college or university; restrictions and prohibition; sale of alcoholic liquor on hotel premises located on land owned by central Michigan university or Wayne state university; conditions; nontransferability; fee; “college,” “university,” and “conference center” defined.**

Sec. 513. (1) The commission may issue to the governing board of a college or university, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption on the premises of a conference center operated by the governing board. Licenses granted under this subsection may be used only for the sale of alcoholic liquor at regularly scheduled conference center activities. The sale of alcoholic liquor to unscheduled patrons or at unscheduled events is prohibited under this subsection.

(2) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of a hotel located on land owned by central Michigan university if both of the following circumstances exist:

(a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the hotel building and its fixtures.

(b) The hotel and land are located within an industrial, research, or commercial development park established by the governing board of central Michigan university.

(3) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the licensed premises of a restaurant located on land owned by Wayne state university if both of the following circumstances exist:

(a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the licensed premises for the operation of a restaurant.

(b) The restaurant is located within an area designated for industrial, research, or commercial development by the governing board of Wayne state university.

(4) Licenses issued pursuant to this section are nontransferable, and the licensee shall pay the fee required under section 525.

(5) As used in this section:

(a) "College" or "university" means a 2-year or 4-year state supported institution of higher education.

(b) "Conference center" means a building or portion of a building, other than a student residence hall or student center, which has meeting rooms, banquet areas, social halls, overnight accommodations, and related facilities for special activities scheduled by the college or university, which in the judgment of the commission, has been regularly used for conferences and lodging of guests. The convocation center and the corporate education center at eastern Michigan university, the Kirkhof and Eberhard centers at Grand Valley state university, the Bernhard center at western Michigan university, the Wadsworth center at Michigan technological university, the West complex at Saginaw Valley state university, the conference center at Big Rapids, the applied technology center at Grand Rapids and the FSU-GR conference center of Ferris state university, Grand Rapids junior college, the Waterman campus center at Schoolcraft college, the Mendel center at Lake Michigan community college, the McGregor memorial conference center at Wayne state university, the Michigan state university management educational center, the Superior dome at northern Michigan university, the Walker Cisler center at Lake Superior state university, the Marie Prahll college center at Mott community college, the John T. Parsons and Frank L. Stulen Michigan technical education center, the Gerald and Frances Oleson center, the Dennos museum center, and the Great Lakes campus at northwestern Michigan college, the farmhouse at Delta college, the Oakland community college culinary studies institute, and the performing arts and cultural center complex at Macomb community college are considered conference centers for the purposes of this act.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 400, Imd. Eff. Dec. 17, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998;—Am. 2000, Act 344, Imd. Eff. Dec. 27, 2000;—Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002;—Am. 2004, Act 141, Imd. Eff. June 15, 2004;—Am. 2007, Act 11, Imd. Eff. May 24, 2007;—Am. 2009, Act 48, Imd. Eff. June 18, 2009.

#### **436.1513a Sale of alcoholic liquor for consumption at community college's or university's culinary or hospitality program's location; license; prohibition; submission of documents; cancellation of license; use; license to private entity; catering permit; definitions.**

Sec. 513a. (1) Beginning October 1, 2011, the commission may issue to the governing board of a community college or university that is accredited by a nationally recognized accrediting agency as determined by the United States secretary of education under 20 USC 1099b and that operates an accredited culinary or hospitality program, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption at the community college's or university's culinary or hospitality program's location for activities that further the community college's or university's community or academic mission.

(2) Except as otherwise provided in subsection (7), the sale of alcoholic liquor to patrons at a location other than the community college's or university's culinary or hospitality program's location or at activities that do not further the community college's or university's community or academic mission, including, but not limited to, public and private gatherings or meetings that do not have a direct correlation to the community college's or university's community or academic mission, is prohibited under this section.

(3) To obtain a license under this section, a community college or university shall submit both of the following to the commission:

(a) Documentation verifying that the community college or university is accredited by a nationally recognized accrediting agency as determined by the United States secretary of education under 20 USC 1099b.

(b) Either of the following:

(i) Documentation verifying that the community college's or university's culinary or hospitality program is accredited by a regionally recognized accrediting body.

(ii) Within 180 days after the effective date of the amendatory act that added this section, a copy of the community college's or university's application to a regionally recognized accrediting body for accreditation of its culinary or hospitality program.

(4) The commission shall cancel a license issued under this section if, within 2 years of applying for a license under this section, the community college's or university's culinary or hospitality program is not accredited by a regionally recognized accrediting body, unless the community college or university demonstrates good cause for an extension of time to obtain accreditation by a regionally recognized accrediting body.

(5) Except as otherwise provided in subsection (7), a liquor license issued under this section shall be granted and registered to the community college's or university's culinary or hospitality program's location.

(6) Except as otherwise provided in subsection (7), a liquor license issued under this section shall be used by the community college or university and not by a private entity.

(7) Subject to section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of an outdoor stadium located on land owned by Lake Michigan college and leased to a private entity. The prohibition in section 531(7) on licenses at outdoor stadiums does not apply to a license issued under this subsection.

(8) A community college or university that holds a liquor license under this section shall not obtain a catering permit under section 547.

(9) As used in this section:

(a) "Community college" means a community college established under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195.

(b) "University" means a public university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

**History:** Add. 2011, Act 249, Imd. Eff. Dec. 8, 2011.

#### **436.1514 Hotel and conference center owned and operated by university; issuance of class B hotel license; conditions; limitation; "hospitality program" defined.**

Sec. 514. (1) Notwithstanding section 501 and subject to the quota system under this act, the commission may issue a class B hotel license to a hotel and conference center owned and operated by a university meeting at least all of the following:

(a) Contains a hotel with at least 150 guest rooms.

(b) Has a restaurant seating at least 125 guests that serves a full-menu breakfast, lunch, and dinner.

(c) Has over 30,000 square feet of flexible meeting space.

(d) Is open year-round to provide services to the public and to serve the mission of the hospitality program.

(e) Has a hospitality program providing at least all of the following at the site of the hotel and conference center as part of that program:

(i) Student education classrooms.

(ii) A working hospitality laboratory setting.

(iii) Utilization of rotational interns each semester or equivalent time period.

(2) In public areas of the hotel and conference center, the sale and consumption of alcoholic liquor is limited to table service only unless the public areas are reserved for private functions.

(3) As used in this section, "hospitality program" means a course of academic study that, at a minimum, is a nationally accredited program at baccalaureate and graduate levels in the hospitality business that requires at least 120 semester credits or the equivalent for completion of the baccalaureate degree and that has a teaching and research staff predominated by individuals with at least doctoral degrees.

**History:** Add. 2000, Act 166, Imd. Eff. June 20, 2000.

#### **436.1514a Hotel and conference center owned and operated by university; issuance of class B hotel license; conditions; limitation; "hospitality program" defined.**

Sec. 514a. (1) Notwithstanding section 501 and subject to the quota system under this act, the commission may issue a class B hotel license to a hotel and conference center owned and operated by a university that holds a class B hotel license issued under section 514 and meets at least all of the following:

(a) Contains a hotel with at least 45 guest rooms.

(b) Has a restaurant seating at least 90 guests that serves a full-menu breakfast, lunch, and dinner.

(c) Has over 13,000 square feet of flexible meeting space.

(d) Is open year-round to provide services to the public and to serve the mission of the hospitality program.

(e) Has a hospitality program providing at least 2 of the following at the site of the hotel and conference center as part of that program:

- (i) Student education classrooms.
- (ii) A working hospitality laboratory setting.
- (iii) Utilization of rotational interns each semester or during the summer.

(2) In public areas of the hotel and conference center, the sale and consumption of alcoholic liquor is limited to table service only unless the public areas are reserved for private functions.

(3) As used in this section, "hospitality program" means a course of academic study that, at a minimum, is a nationally accredited program at baccalaureate and graduate levels in the hospitality business that requires at least 120 semester credits or the equivalent for completion of the baccalaureate degree and that has a teaching and research staff predominated by individuals with at least doctoral degrees.

**History:** Add. 2004, Act 194, Imd. Eff. July 8, 2004.

#### **436.1515 Class "C" license or tavern license for certain golf courses; transfer of license to another location prohibited; surrender of license.**

Sec. 515. (1) The commission may issue in a county with a population of 1,000,000 or more, without regard to the quota provisions of section 531, a class C license for a golf course that is owned by a county, city, village, or township and is open to the public.

(2) The commission may issue in a county with a population of between 500,000 and 700,000, without regard to the quota provisions of section 531, 1 tavern license for a golf course that is owned by a city with a population of over 190,000 but under 300,000 and is open to the public.

(3) The commission shall not transfer a license issued under this section to another location. If a licensee who receives a license under this section goes out of business, the license issued under this section shall be surrendered to the commission.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2004, Act 192, Imd. Eff. July 8, 2004.

#### **436.1517 International sporting event licenses; issuance in connection with international golf tournament; circumstances; duration; limitation; list; recommendation by governing body; certification of compliance; fee.**

Sec. 517. (1) The commission may issue international sporting event licenses for the sale of alcoholic liquor for consumption on the premises in connection with an international golf tournament conducted during calendar year 2004 if all of the following circumstances are found by the commission to exist:

(a) The local governmental unit in which the international sporting event is to be conducted is the host governmental unit for that event.

(b) The premises to be licensed are located in a theme area or theme areas designated by the governing body of the host governmental unit in connection with the international sporting event or are operated in conjunction with that event.

(c) The commission determines that the international sporting event will attract a substantial number of tourists from outside this state.

(d) The international sporting event is conducted under the auspices of a national or international sanctioning body.

(e) The applicant is any of the following:

(i) A Michigan licensee for the sale of alcoholic liquor for consumption on the premises.

(ii) The promoter of the international sporting event or an affiliate of the promoter.

(iii) A person who has entered into a written concession or catering agreement with the promoter of the international sporting event or its affiliate, which agreement has been approved by the commission.

(iv) An organization qualified for licensure as a special licensee under section 111(10) and the rules of the commission.

(2) Licenses issued under this section shall be for a period of not more than 30 consecutive days and are not transferable as to ownership or location. The license shall be for specific designated time periods that include the international sporting event and activities associated with the event.

(3) Not more than 40 licenses shall be issued under this section for use at the same time in a theme area or theme areas.

(4) The governing body of a host governmental unit described in subsection (1) shall supply to the commission for the commission's review a list containing the names of applicants and the locations of the premises to be licensed under this section. The governing body of the host governmental unit shall recommend the number of licenses to be issued pursuant to this section in the theme area or theme areas. The commission shall not issue any licenses pursuant to this section that are not recommended by the governing body of the host governmental unit.

(5) The governing body of the host governmental unit shall provide, in conjunction with the list described

in subsection (4), written certification to the commission that all premises to be licensed under this section comply with applicable state and local building, safety, and health laws, rules, and regulations.

(6) A license issued pursuant to this section is not subject to section 503.

(7) An applicant for a license under this section shall pay to the commission a license fee of \$1,000.00 at the time of application.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2004, Act 169, Imd. Eff. June 24, 2004.

**436.1517a National sporting event license; issuance; circumstances; duration; limitation on number of licenses issued; recommendation of governing body of host governmental unit; certification of compliance with applicable laws, rules, and regulations; fee; "national sporting event" defined.**

Sec. 517a. (1) The commission may issue national sporting event licenses for the sale of alcoholic liquor for consumption on the premises concerning a national sporting event, if the commission finds all of the following circumstances exist:

(a) The local governmental unit in which the national sporting event is to be conducted is the host governmental unit for the national sporting event.

(b) The premises to be licensed are located in a theme area or theme areas designated by the governing body of the host governmental unit in connection with the national sporting event or are operated in conjunction with the national sporting event.

(c) The commission determines that the national sporting event will attract a substantial number of tourists from outside this state.

(d) The national sporting event is conducted under the auspices of a national sanctioning body.

(e) The applicant is any of the following:

(i) A Michigan licensee for the sale of alcoholic liquor for consumption on the premises.

(ii) The promoter of the national sporting event or an affiliate of the promoter.

(iii) A person who has entered into a written concession or catering agreement with the promoter of the national sporting event or its affiliate, which agreement has been approved by the commission.

(iv) An organization qualified for licensure as a special licensee under section 111(11) and the rules of the commission.

(2) A license issued under this section must be for a period of not more than 30 consecutive days and is not transferable as to ownership or location. The license must be for specific designated time periods that include the national sporting event and activities associated with the national sporting event.

(3) Not more than 40 licenses may be issued under this section for use at the same time in a theme area or theme areas.

(4) The governing body of a host governmental unit described in subsection (1) shall supply to the commission for the commission's review a list containing the names of applicants and the locations of the premises to be licensed under this section. The governing body of the host governmental unit shall recommend the number of licenses to be issued under this section in the theme area or theme areas. The commission shall not issue a license under this section that is not recommended by the governing body of the host governmental unit.

(5) The governing body of the host governmental unit shall provide, in conjunction with the list described in subsection (4), written certification to the commission that all premises to be licensed under this section comply with applicable state and local building, safety, and health laws, rules, and regulations.

(6) A license issued under this section is not subject to section 503.

(7) An applicant for a license under this section shall pay to the commission a license fee of \$1,000.00 at the time of application.

(8) As used in this section, "national sporting event" means a sports related event considered of national prominence and includes only the following:

(a) The Major League Baseball All-Star Game during calendar year 2005.

(b) The National Football League Super Bowl during calendar year 2006.

(c) The Professional Golfers' Association Championship during calendar year 2008.

(d) The National Collegiate Athletic Association Final Four games during calendar year 2009.

(e) The United States Golf Association Amateur Championship during calendar year 2016.

**History:** Add. 2004, Act 170, Imd. Eff. June 24, 2004;—Am. 2016, Act 180, Imd. Eff. June 14, 2016.

**436.1518 Definitions; issuance of motorsports event licenses; consumption and possession of beer and wine in motorsports entertainment complex; civil liability.**

Sec. 518. (1) As used in this section:

(a) "Motorsports entertainment complex" means a closed-course motorsports facility and its ancillary grounds that comply with all of the following:

(i) Has at least 1,500 fixed seats for race patrons.

(ii) Has at least 7 scheduled days of motorsports events each calendar year.

(iii) Serves food and beverages at the facility during sanctioned motorsports events each calendar year through concession outlets, which may be staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets' sales.

(iv) Engages in tourism promotion.

(b) "Motorsports event" means a motorsports race and its ancillary activities that have been sanctioned by a sanctioning body.

(c) "Owner" means a person who owns and operates a motorsports entertainment complex.

(d) "Sanctioning body" means the American motorcycle association (AMA); auto racing club of America (ARCA); championship auto racing teams (CART); grand American road racing association (GRAND AM); Indy racing league (IRL); national association for stock car auto racing (NASCAR); nation hot rod association (NHRA); professional sportscar racing (PSR); sports car club of America (SCCA); United States auto club (USAC); Michigan state promoters association; or any successor organization or any other nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events and grants rights to conduct the events, that has established and administers rules and regulations governing all participants involved in the events and all persons conducting the events, and that requires certain liability assurances, including insurance.

(2) Notwithstanding the quota provisions of section 531, the commission may issue motorsports event licenses for the sale of beer and wine or beer, wine, mixed spirit drink, and spirits for consumption on the premises to the owner of a motorsports entertainment complex for use during sanctioned motorsports events only. The sale of beer, wine, mixed spirit drink, and spirits at concession outlets or additional locations within the motorsports entertainment complex during motorsports sanctioned events shall not be considered additional bars for the purpose of determining a license fee pursuant to section 525(1)(o). An applicant for a license under this section that elects to sell beer and wine only shall pay to the commission a license fee of \$250.00. An applicant for a license under this section that elects to sell beer, wine, mixed spirit drink, and spirits shall pay to the commission a license fee of \$600.00.

(3) For a period of time not to exceed 7 consecutive days during which public access is permitted to a motorsports entertainment complex in connection with a motorsports event, members of the general public at least 21 years or older may bring beer and wine not purchased at the licensed motorsports entertainment complex into the motorsports entertainment complex and possess and consume that beer and wine. Possession and consumption of beer and wine under this section are allowed only in portions of the motorsports entertainment complex open to the general public that are also part of the licensed premises of a retail licensee under both of the following circumstances:

(a) The licensed premises are located within the motorsports entertainment complex.

(b) The retail licensee holds a license for consumption on the licensed premises of the motorsports entertainment complex.

(4) A person holding a license for the sale of alcoholic liquor for consumption on the premises at a motorsports entertainment complex is subject to the civil liability provisions of section 801 if the civil action is brought by or on behalf of an individual who suffers damage or is personally injured by a minor or visibly intoxicated person by reason of the unlawful consumption of alcoholic liquor on the licensed premises by that minor or visibly intoxicated person if the unlawful consumption is proven to be a proximate cause of the damage, injury, or death of the individual, whether the alcoholic liquor was sold or furnished by the licensee or was brought onto the licensed premises under subsection (3).

**History:** Add. 2002, Act 725, Imd. Eff. Dec. 30, 2002;—Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005;—Am. 2010, Act 279, Imd. Eff. Dec. 16, 2010.

#### **436.1519 Property or establishment situated in or on state-owned land.**

Sec. 519. (1) Except as otherwise provided in this act, the commission shall not issue a license to sell alcoholic liquor, either on or off the premises, if the property or establishment to be covered by the license is situated in or on state owned land.

(2) Subsection (1) does not apply to a special license which has been approved by the governing authority of that state owned land.

(3) Subsection (1) does not apply to the following land:

(a) The Michigan state fairgrounds.

(b) The Upper Peninsula state fairgrounds.

(c) Armories, air bases, and naval installations owned or leased by the state or provided by the federal government by either lease, license, or use permit and used by outside parties of a nonmilitary or nonstate governmental nature.

(d) Land which was under lease to a person licensed in the calendar year 1954 and on which a licensed establishment is presently located.

(e) Land located in the Upper Peninsula which was owned or leased by the federal government, used as a military installation, and transferred to this state before December 31, 2000 pursuant to 1978 PA 151, MCL 3.551 to 3.561, or 1993 PA 159, MCL 3.571 to 3.580. The commission may issue 2 additional licenses pursuant to this subdivision for establishments located on this state land without regard to or without the effect upon the quota provisions of section 531 in the local governmental unit in which the license will be issued subject to the recommendation of the authority established pursuant to those acts. A person issued a license pursuant to this subdivision may renew the license and transfer ownership of the license, without regard to or without the effect upon the quota provisions of section 531, if title to the property covered by the license is transferred from the state to another person or to another governmental unit. The commission shall not transfer a license issued under this subdivision to another location. Before the issuance of a license, and annually thereafter before the issuance of a license for a new licensing period, the applicant for a license shall submit to the commission a certificate from the department or agency charged with control of the land setting forth that the issuance of a license is not incompatible with the objects and purposes entrusted to that department or agency under the law establishing control of the land in the department or agency. This subsection does not prohibit the issuance of a license pursuant to section 513.

(f) Property owned by the Michigan state waterways commission and leased to persons under part 791 (harbor development) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.79101 to 324.79118. A license may be issued under this subdivision to a lessee without regard to the quota provisions of section 531, but the license shall not be issued without the written approval of the Michigan state waterways commission or its designee. A license issued under this subdivision shall not be transferable as to ownership or location, and, if the licensee goes out of business, the license shall be surrendered to the commission.

(g) Property owned by the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1979 PA 300, MCL 38.1301 to 38.1437; the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1521 Limitation on tavern or class C licenses; renewal of license; conditions; revocation; transfer of license; issuance of certain licenses prohibited; "development district" defined.**

Sec. 521. (1) Beginning on the effective date of the amendatory act that added section 521a, the commission shall not issue any tavern or class C licenses under this section. However, those licenses issued under this section before the effective date of the amendatory act that added section 521a remain valid and may be renewed if in compliance with this section. The commission shall renew licenses issued under this section before the effective date of the amendatory act that added section 521a for persons who operate businesses that meet all of the following conditions:

(a) The business is a full service restaurant, is open to the public, and prepares food on the premises.

(b) The business is open for food service not less than 10 hours per day, 5 days a week.

(c) At least 50% of the gross receipts of the business are derived from the sale of food for consumption on the premises. For purposes of this subdivision, food does not include beer and wine.

(d) The business has dining facilities to seat not less than 25 persons.

(e) The business is located in a development district with a population of not more than 50,000, in which the district, after a public hearing, has found that the issuance of the license would prevent further deterioration within the development district and promote economic growth within the development district.

(2) If in any licensing year the sale of food for consumption on the premises of the business represents less than 50% of the gross receipts for the business, the commission, after due notice and proper hearing, shall revoke the license issued under subsection (1).

(3) A license issued under this section is transferable as to ownership or location only within the development district.

(4) The commission shall not issue a specially designated merchant license, specially designated distributor license, or any other license that allows the sale of alcoholic liquor for consumption off the premises in conjunction with a license issued under this section or at the premises for which a license has been issued

under this section.

(5) As used in this section, "development district" means any of the following:

(a) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(b) An authority district established under the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(c) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.

(d) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990m, before January 1, 1996.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 282, Imd. Eff. July 27, 1998;—Am. 2006, Act 502, Imd. Eff. Dec. 29, 2006.

**436.1521a Public on-premises licenses; issuance to businesses; conditions; commercial investment in redevelopment project area; time period; total investment; number of licenses; requirements; fee; transfer of license prohibited; attempt to secure on-premises escrowed license or quota license; definitions.**

Sec. 521a. (1) In order to allow cities, villages, and townships to enhance the quality of life for their residents and visitors to their communities, the commission may issue public on-premises licenses in addition to those quota licenses allowed in cities, villages, and townships under section 531(1). The licenses under this section shall be issued to businesses that meet either of the following conditions:

(a) Are located in a redevelopment project area meeting the criteria described in subsections (3) and (4) and are engaged in activities determined by the commission to be related to dining, entertainment, or recreation.

(b) Are located in a development district or area that is any of the following:

(i) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(ii) A development area established under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2899.

(iii) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.

(iv) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990n.

(2) The commission shall not issue a license under subsection (1)(a) unless the applicant fulfills the following in relation to the licensed premises:

(a) Provides the activity described in subsection (1)(a) not less than 5 days per week.

(b) Is open to the public not less than 10 hours per day, 5 days per week.

(c) Presents verification of redevelopment project area status to the commission that includes the following:

(i) A resolution of the governing body of the city, village, or township establishing its status as a redevelopment project area.

(ii) An affidavit from the assessor, as certified by the clerk of the city, village, or township, stating the total amount of investment in real and personal property within the redevelopment project area of the city, village, or township during the preceding 3 years.

(iii) An affidavit from the assessor, as certified by the clerk of the city, village, or township, separately stating the amount of investment money expended for manufacturing, industrial, residential, and commercial development within the redevelopment project area of the city, village, or township during the preceding 3 years.

(3) Relative to the licenses issued under subsection (1)(a), the amount of commercial investment in the redevelopment project area within the city, village, or township shall constitute not less than 25% of the total investment in real and personal property in that redevelopment project area as evidenced by an affidavit of the assessor of the city, village, or township. This subsection does not prevent the city, village, or township from realigning the redevelopment project area in the presentment of verification provided for under subsection (2)(c).

(4) In relation to a license issued under subsection (1)(a), an applicant shall be located in a city, village, or township that meets at least 1 of the investment requirements of subsection (1)(a) during the 3 years preceding the submission of its application. The total investment in real and personal property in the redevelopment project area within the city, village, or township over the appropriate time period described in this subsection shall be at least 1 of the following:

(a) Not less than \$50,000,000.00 in cities, villages, or townships having a population of 50,000 or more.

(b) Not less than an amount reflecting \$1,000,000.00 per 1,000 people in cities, villages, or townships

having a population of less than 50,000.

(5) The commission may issue a license under subsection (1)(a) for each monetary threshold described in subsection (4)(a) and (b), and, after reaching the initial threshold, 1 additional license for each major fraction thereof above that original threshold.

(6) The following apply to a license issued under subsection (1)(b):

(a) The amount expended for the rehabilitation or restoration of the building that housed the licensed premises shall be not less than \$75,000.00 over a period of the preceding 5 years or a commitment for a capital investment of at least that amount in the building that houses the licensed premises, that must be expended before the issuance of the license.

(b) The total amount of public and private investment in real and personal property within the development district or area shall not be less than \$200,000.00 over a period of the preceding 5 years as verified to the commission by means of an affidavit from the assessor, as certified by the clerk of the city, village, or township.

(c) The licensed business is engaged in dining, entertainment, or recreation, is open to the general public, and has a seating capacity of not less than 25 persons.

(7) The commission may issue 1 license for each monetary threshold described in subsection (6)(b), or for each major fraction thereof. The initial enhanced license fee for a license issued under this section is \$20,000.00.

(8) The commission shall not transfer a license issued under this section to another location. If the licensee goes out of business, the licensee shall surrender the license to the commission. The governing body of the city, village, or township may approve another applicant within a redevelopment project area or development district or area to replace a licensee who has surrendered the license issued under this section provided the new applicant's business meets the requirements of this section but without regard to subsections (2)(c), (3), and (4) or subsection (6)(b).

(9) The individual signing the application for the license shall state and demonstrate that the applicant attempted to secure an appropriate on-premises escrowed license or quota license issued under section 531 and that, to the best of his or her knowledge, an on-premises escrowed license or quota license issued under section 531 is not readily available within the county in which the applicant proposes to operate.

(10) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(i) The fair market value of the license based on where the applicant will be located, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

**History:** Add. 2006, Act 501, Imd. Eff. Dec. 29, 2006;—Am. 2010, Act 369, Imd. Eff. Dec. 22, 2010;—Am. 2014, Act 270, Imd. Eff. July 2, 2014.

#### **436.1522 Banquet facility permits.**

Sec. 522. (1) The commission may issue 1 banquet facility permit to an on-premise licensee, as an extension of that on-premise license, for the serving of alcoholic liquor only on the permitted premises. This section does not limit the number of banquet facility permits that the commission may issue within any local unit of government. The banquet facility shall be used only for scheduled functions and events, shall not have regular meal service, and shall not be generally open to the public. The applicant shall provide documentation that demonstrates a preexisting ownership or lease interest in the banquet facility.

(2) The commission shall charge an initial permit issuance fee and, upon renewal of the permit, a permit renewal fee sufficient to cover the cost of administering the issuance and renewal of the permit. The fees shall be \$600.00.

(3) The banquet facility permit expires on the same date as the on-premise license and may be renewed in conjunction with that license. The commission shall issue the permit only to a licensee to which the following apply:

(a) The licensee does not have a record of any prior offenses or violations that the commission considers to be of such a nature as to pose a threat to the general public if a permit is issued.

(b) The licensee has demonstrated to the commission that at least 50% of the gross receipts of the on-premise license are derived from the sale of food and nonalcoholic beverages prepared for consumption on the licensed premises.

(4) The licensee shall apply on forms provided by the commission and provide information considered necessary by the commission to protect the public interest and welfare including, but not limited to, a diagram of the premises and evidence that the premises meets local safety, building, and health codes.

(5) The commission shall not issue a banquet facility permit unless issuance is approved through adoption of a resolution of the legislative body of the local unit of government within which the permitted facility is located.

**History:** Add. 1998, Act 282, Imd. Eff. July 27, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998.

**Administrative rules:** R 436.1501 et seq. of the Michigan Administrative Code.

#### **436.1523 Liquor licenses; ineligibility of law enforcement officers; exception; "law enforcement personnel" defined.**

Sec. 523. (1) A person who holds or whose spouse holds, either by appointment or election, a public office which involves the duty to enforce any of the penal laws of the United States, or the penal laws of this state, or a penal ordinance or resolution of any municipal subdivision of the state, except civil defense volunteer police, mayors or council members of cities, or village presidents, or mayors of home rule cities whose law enforcement authority under the city charter is restricted to emergency situations, or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408; the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69; the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648; and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong, shall not be issued a license, or have an interest, directly or indirectly, in a license if the activity regulated by the license occurs in the same local unit of government within which the person enforces those state or local penal laws unless the official is contractually prohibited from enforcing this act. This subsection does not apply to a spouse of an appointed or elected official holding an office which involves the duty to enforce a penal law described in this subsection if the spouse held a license or an interest in a license for not less than 3 years before marrying the appointed or elected official or if the spouse has voting rights in a public or private club holding the license, which voting rights are derived from ownership of shares to the club, and the spouse participates as a member in good standing of the public or private club or of an advisory board but does not participate in the day-to-day operation of the club. In the case of any licensee excepted from the general prohibition contained in this section, the commission may periodically review all circumstances of the licensee and his or her spouse regarding the exception. The commission has the authority to review and monitor any complaints it receives regarding inappropriate enforcement of this act by or against a person excepted from this section. However, a nonprofit fraternal organization incorporated under the laws of this state, whose membership is not totally composed of law enforcement personnel or public officeholders charged with the duty of enforcing any penal laws or ordinances of a governmental body, may be issued a club liquor license if the organization is otherwise qualified.

(2) As used in this section, "law enforcement personnel" does not include the mayor of a city or the state treasurer of this state when acting in the capacity of custodian of the assets of the state retirement systems created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648, and the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, and members of these state retirement systems only if the state treasurer makes an investment in the name of the respective retirement system to which such members belong.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

\*\*\*\*\* 436.1525 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 1, 2017: See 436.1525.amended \*\*\*\*\*

#### **436.1525 License fees; fingerprints; filing completed application; issuance of license within certain period of time; conditional license; report; "completed application" defined.**

Sec. 525. (1) Except as otherwise provided in this section, the following license fees shall be paid at the time of filing applications or as otherwise provided in this act and are subject to allocation under section 543:

(a) Manufacturers of spirits, not including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$1,000.00.

(b) Manufacturers of beer, \$50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of \$1,000.00, and in addition \$50.00 for each motor vehicle used in delivery to retail licensees.

A fee increase does not apply to a manufacturer of less than 15,000 barrels production per year.

- (c) Outstate seller of beer, delivering or selling beer in this state, \$1,000.00.
- (d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$100.00. The small wine maker license fee is \$25.00.
- (e) Outstate seller of wine, delivering or selling wine in this state, \$300.00.
- (f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, \$300.00.
- (g) Dining cars or other railroad or Pullman cars selling alcoholic liquor, \$100.00 per train.
- (h) Wholesale vendors other than manufacturers of beer, \$300.00 for the first motor vehicle used in delivery to retail licensees and \$50.00 for each additional motor vehicle used in delivery to retail licensees.
- (i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of \$500.00 per year computed on the basis of \$1.00 per person per passenger capacity.
- (j) Specially designated merchants, for selling beer or wine for consumption off the premises only but not at wholesale, \$100.00 for each location regardless of whether the location is part of a system or chain of merchandising.
- (k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, \$150.00 per year, and an additional fee of \$3.00 for each \$1,000.00 or major fraction of that amount in excess of \$25,000.00 of the total retail value of merchandise purchased under each license from the commission during the previous calendar year.
- (l) Hotels of class A selling beer and wine, a minimum fee of \$250.00 and \$1.00 for each bedroom in excess of 20, but not more than \$500.00 total.
- (m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of \$600.00 and \$3.00 for each bedroom in excess of 20. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, a fee of \$350.00 shall be paid for each additional public bar, other than a bedroom.
- (n) Taverns, selling beer and wine, \$250.00.
- (o) Class C license selling beer, wine, mixed spirit drink, and spirits, \$600.00. Subject to section 518(2), if a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of \$350.00 shall be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of \$100.00 shall be paid for each additional bar.
- (p) Clubs selling beer, wine, mixed spirit drink, and spirits, \$300.00 for clubs having 150 or fewer accredited members and \$1.00 for each member in excess of 150. Clubs shall submit a list of members by a sworn affidavit 30 days before the closing of the license year. The sworn affidavit shall be used only for determining the license fees to be paid under this subdivision. This subdivision does not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members is not required of a club paying the maximum fee. The maximum fee shall not exceed \$750.00 for any 1 club.
- (q) Warehousemen, to be fixed by the commission with a minimum fee for each warehouse of \$50.00.
- (r) Special licenses, a fee of \$50.00 per day, except that the fee for that license or permit issued to any bona fide nonprofit association, duly organized and in continuous existence for 1 year before the filing of its application, is \$25.00. Not more than 12 special licenses may be granted to any organization, including an auxiliary of the organization, in a calendar year.
- (s) Airlines licensed to carry passengers in this state that sell, offer for sale, provide, or transport alcoholic liquor, \$600.00.
- (t) Brandy manufacturer, \$100.00.
- (u) Mixed spirit drink manufacturer, \$100.00.
- (v) Brewpub, \$100.00.
- (w) Class G-1, \$1,000.00.
- (x) Class G-2, \$500.00.
- (y) Motorsports event license, the amount as described and determined under section 518(2).
- (z) Small distiller, \$100.00.
- (aa) Wine auction license, \$50,000.00.
- (bb) Nonpublic continuing care retirement center license, \$600.00.
- (cc) Conditional license approved under subsection (6) and issued under subsection (7), \$300.00.

(2) The fees provided in this act for the various types of licenses shall not be prorated for a portion of the effective period of the license. Notwithstanding subsection (1), the initial license fee for any licenses issued under section 531(3) or (4) is \$20,000.00. The renewal license fee shall be the amount described in subsection (1). However, the commission shall not impose the \$20,000.00 initial license fee for applicants whose license eligibility was already approved on July 20, 2005.

(3) If the commission requires an applicant to submit fingerprints, the applicant shall have the fingerprints taken by a local law enforcement agency, the department of state police, or any other person qualified to take fingerprints as determined by the department of state police. The applicant shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police and the federal bureau of investigation for a criminal history check. After conducting the criminal history check, the department of state police shall provide the commission with a report of the criminal history check. The report shall contain criminal history record information concerning the person who is the subject of the criminal history check that is maintained by the department of state police. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted pursuant to this act and stored in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commission.

(4) Except in the case of any resort or resort economic development license issued under section 531(2), (3), (4), or (5) or a license issued under section 521a, the commission shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. The application is considered to be received the date the application is received by any agency or department of this state. If the commission determines that an application is incomplete, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility upon an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled for the following periods under any of the following circumstances:

(a) If notice is sent by the commission of a deficiency in the application, until the date all of the requested information is received by the commission.

(b) For the time required to complete actions required by a person, other than the applicant or the commission, including, but not limited to, completion of construction or renovation of the licensed premises; mandated inspections by the commission or by any state, local, or federal agency; approval by the legislative body of a local unit of government; criminal history or criminal record checks; financial or court record checks; or other actions mandated by this act or rule or as otherwise mandated by law or local ordinance.

(5) If the commission fails to issue or deny a license within the time required by this section, the commission shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the commission to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The commission shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(6) If, in addition to a completed application under this section, an applicant submits a separate form requesting a conditional license with an acceptable proof of financial responsibility form under section 803, and an executed property document, the commission shall, after considering the arrest and conviction records or previous violation history in the management, operation, or ownership of a licensed business, approve or deny a conditional license. A conditional license issued under subsection (7) for the transfer of an existing license at the same location shall include any existing permits and approvals held in connection with that license. The following applicants may request a conditional license:

(a) An applicant seeking to transfer ownership of or interest in an existing license at the same location to sell alcoholic liquor for consumption on or off the premises.

(b) An applicant seeking an initial license other than a specially designated distributor license or a license for the sale of alcoholic liquor for consumption on the premises.

(7) The commission shall issue a conditional license to applicants approved under subsection (6) within 20 business days after receipt of a completed application and a completed conditional license request form and documentation for a conditional license at a single location. The commission may take up to 30 business days to issue conditional licenses to approved applicants seeking conditional licenses at multiple locations.

(8) A conditional license approved under subsection (6) and issued under subsection (7) is nontransferable and nonrenewable. A conditional license approved under subsection (6) and issued under subsection (7) expires when the commission issues an order of denial of the license application that serves as the basis for the conditional license after all administrative remedies before the commission have been exhausted, expires 20 business days after the commission issues an order of approval of the license application that serves as the basis for the conditional license, expires when the licensee or conditional licensee notifies the commission in writing that the initial application should be canceled, or expires 1 year after the date the conditional license was issued, whichever occurs first. If a conditionally approved licensee fails to maintain acceptable proof of

its financial responsibility, the commission shall, after due notice and proper hearing, suspend the conditional license until the licensee files an acceptable proof of financial responsibility form under section 803. If a conditional license is revoked, the conditional licensee shall not recover from a unit of local government any compensation for property, future income, or future economic loss due to the revocation.

(9) Upon issuing a conditional license under subsection (7), the commission shall, until the conditional license expires under subsection (8), place an existing license under subsection (4) in escrow in compliance with R 436.1107 of the Michigan administrative code. If the conditional license expires because a transfer of an existing license was denied or because the license was not transferred within the 1-year period, an existing licensee may do 1 of the following:

(a) Request that the commission release the license from escrow.

(b) Keep the license in escrow. The escrow date for compliance with R 436.1107 of the Michigan administrative code shall be the date the conditional license expires.

(10) The chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the commission received and completed within the 90-day time period described in subsection (4).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (5).

(11) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule of a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2002, Act 76, Imd. Eff. Mar. 15, 2002;—Am. 2004, Act 266, Imd. Eff. July 23, 2004;—Am. 2005, Act 97, Imd. Eff. July 20, 2005;—Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005;—Am. 2006, Act 539, Imd. Eff. Dec. 29, 2006;—Am. 2008, Act 218, Imd. Eff. July 16, 2008;—Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2010, Act 279, Imd. Eff. Dec. 16, 2010;—Am. 2013, Act 236, Eff. May 22, 2014;—Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014.

**Constitutionality:** In *Granholm v Heald*, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1 of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.

\*\*\*\*\* 436.1525.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 1, 2017 \*\*\*\*\*

#### **436.1525.amended License fees; fingerprints; filing completed application; issuance of license within certain period of time; conditional license; report; "completed application" defined.**

Sec. 525. (1) Except as otherwise provided in this section, the following license fees must be paid at the time of filing applications or as otherwise provided in this act and are subject to allocation under section 543:

(a) Manufacturers of spirits, not including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$1,000.00.

(b) Manufacturers of beer, \$50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of \$1,000.00, and in addition \$50.00 for each motor vehicle used in delivery to retail licensees. A fee increase does not apply to a manufacturer of less than 15,000 barrels production per year.

(c) Outstate seller of beer, delivering or selling beer in this state, \$1,000.00.

(d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, \$100.00. The small wine maker license fee is \$25.00.

(e) Outstate seller of wine, delivering or selling wine in this state, \$300.00.

(f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, \$300.00.

(g) Dining cars or other railroad or Pullman cars selling alcoholic liquor, \$100.00 per train.

(h) Wholesale vendors other than manufacturers of beer, \$300.00 for the first motor vehicle used in delivery to retail licensees and \$50.00 for each additional motor vehicle used in delivery to retail licensees.

(i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of \$100.00 and a maximum fee of \$500.00 per year computed on the basis of \$1.00 per person per passenger capacity.

(j) Specially designated merchants, for selling beer or wine for consumption off the premises only but not at wholesale, \$100.00 for each location regardless of whether the location is part of a system or chain of

merchandising.

(k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, \$150.00 per year, and an additional fee of \$3.00 for each \$1,000.00 or major fraction of that amount in excess of \$25,000.00 of the total retail value of merchandise purchased under each license from the commission during the previous calendar year.

(l) Hotels of class A selling beer and wine, a minimum fee of \$250.00 and \$1.00 for each bedroom in excess of 20, but not more than \$500.00 total.

(m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of \$600.00 and \$3.00 for each bedroom in excess of 20. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, a fee of \$350.00 must be paid for each additional public bar, other than a bedroom.

(n) Taverns, selling beer and wine, \$250.00.

(o) Class C license selling beer, wine, mixed spirit drink, and spirits, \$600.00. Subject to section 518(2), if a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of \$350.00 must be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of \$100.00 must be paid for each additional bar.

(p) Clubs selling beer, wine, mixed spirit drink, and spirits, \$300.00 for clubs having 150 or fewer accredited members and \$1.00 for each member in excess of 150. Clubs shall submit a list of members by an affidavit 30 days before the closing of the license year. The affidavit must be used only for determining the license fees to be paid under this subdivision. This subdivision does not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members is not required of a club paying the maximum fee. The maximum fee must not exceed \$750.00 for any 1 club.

(q) Warehouse, to be fixed by the commission with a minimum fee for each warehouse of \$50.00.

(r) Special licenses, a fee of \$50.00 per day, except that the fee for the license or permit issued to a bona fide nonprofit association, organized and in continuous existence for 1 year before the filing of its application, is \$25.00. The commission shall not grant more than 12 special licenses to any organization, including an auxiliary of the organization, in a calendar year.

(s) Airlines licensed to carry passengers in this state that sell, offer for sale, provide, or transport alcoholic liquor, \$600.00.

(t) Brandy manufacturer, \$100.00.

(u) Mixed spirit drink manufacturer, \$100.00.

(v) Brewpub, \$100.00.

(w) Class G-1, \$1,000.00.

(x) Class G-2, \$500.00.

(y) Motorsports event license, the amount as described and determined under section 518(2).

(z) Small distiller, \$100.00.

(aa) Wine auction license, \$50,000.00.

(bb) Nonpublic continuing care retirement center license, \$600.00.

(cc) Conditional license approved under subsection (6) and issued under subsection (7), \$300.00.

(2) The fees provided in this act for the various types of licenses must not be prorated for a portion of the effective period of the license. Notwithstanding subsection (1), the initial license fee for a license issued under section 531(3) or (4) is \$20,000.00. The renewal license fee is the amount described in subsection (1). However, the commission shall not impose the \$20,000.00 initial license fee for applicants whose license eligibility was already approved on July 20, 2005.

(3) If the commission requires an applicant to submit fingerprints, the applicant shall have the fingerprints taken by a local law enforcement agency, the department of state police, or any other person qualified to take fingerprints as determined by the department of state police. The applicant shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police and the Federal Bureau of Investigation for a criminal history check. After conducting the criminal history check, the department of state police shall provide the commission with a report of the criminal history check. The report must include criminal history record information concerning the person who is the subject of the criminal history check that is maintained by the department of state police. If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this act and stored in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commission.

(4) Except for a resort or resort economic development license issued under section 531(2), (3), (4), or (5) or a license issued under section 521a, the commission shall issue an initial or renewal license not later than

90 days after the applicant files a completed application. The application is considered to be received the date the application is received by an agency or department of this state. If the commission determines that an application is incomplete, the commission shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license. The 90-day period is tolled for the following periods under any of the following circumstances:

(a) If notice is sent by the commission of a deficiency in the application, until the date all of the requested information is received by the commission.

(b) For the time required to complete actions required by a person, other than the applicant or the commission, including, but not limited to, completion of construction or renovation of the licensed premises; mandated inspections by the commission or by any state, local, or federal agency; approval by the legislative body of a local unit of government; criminal history or criminal record checks; financial or court record checks; or other actions mandated by this act or rule or as otherwise mandated by law or local ordinance.

(5) If the commission fails to issue or deny a license within the time required by this section, the commission shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the commission to otherwise delay the processing of the application, and the application, on completion, must be placed in sequence with other completed applications received at that same time. The commission shall not discriminate against an applicant in the processing of the application because the license fee was refunded or discounted under this subsection.

(6) If, in addition to a completed application under this section, an applicant submits a separate form requesting a conditional license with an acceptable proof of financial responsibility form under section 803, an executed property document, and, for an application to transfer the location of an existing retailer license other than specially designated distributor license, a church or school proximity affidavit on a form prescribed by the commission attesting that the proposed location is not within 500 feet of a church or school building using the method of measurement required under section 503, the commission shall, after considering the arrest and conviction records or previous violation history in the management, operation, or ownership of a licensed business, approve or deny a conditional license. A conditional license issued under subsection (7) must only include any existing permits and approvals held in connection with the license, other than permits or approvals for which the conditional applicant does not meet the requirements in this act or rules promulgated under this act, or permits or approvals that the conditional applicant has requested to cancel as part of the application that serves as the basis for the conditional license. The commission shall not issue a new permit with a conditional license issued under subsection (7). The following applicants may request a conditional license:

(a) An applicant seeking to transfer ownership of an existing retailer license at the same location to sell alcoholic liquor for consumption on or off the premises.

(b) An applicant seeking to transfer the ownership and location of an existing retailer license, other than a specially designated distributor license, to sell alcoholic liquor for consumption on or off the premises.

(c) An applicant seeking a new specially designated merchant license not to be held in conjunction with a license for the sale of alcoholic liquor for consumption on the premises.

(7) The commission shall issue a conditional license to applicants approved under subsection (6) within 20 business days after receipt of a completed application and a completed conditional license request form and documentation for a conditional license at a single location. The commission may take up to 30 business days to issue conditional licenses to approved applicants seeking conditional licenses at multiple locations. Notwithstanding the applicant's submission of a church or school proximity affidavit under subsection (6), if the commission determines that a conditional license in conjunction with an application to transfer the location of an existing retailer license has been issued under this subsection at a proposed location that is within 500 feet of a church or school building, the commission shall suspend the conditional license and notify the church or school of the proposed location under the rules promulgated under this act. If the commission issues a conditional license under this subsection based on a church or school proximity affidavit under subsection (6) without knowledge that the representations included in the affidavit are incorrect, this state is not liable to any person for the commission's issuance of the conditional license. The commission may assume without inquiry the existence of the facts contained in the affidavit.

(8) A conditional license approved under subsection (6) and issued under subsection (7) is nontransferable and nonrenewable. A conditional licensee is required to comply with the server training requirements in section 501(1) beginning on the date a conditional license is issued under subsection (7) regardless of whether

the conditional licensee is actively operating under the conditional license.

(9) A conditional license approved under subsection (6) and issued under subsection (7) expires when the first of the following occurs:

(a) The commission issues an order of denial of the license application that serves as the basis for the conditional license and all administrative remedies before the commission have been exhausted.

(b) The commission issues the license under subsection (4) for which the applicant submitted the license application that serves as the basis for the conditional license.

(c) The licensee or conditional licensee notifies the commission in writing that the initial or conditional application should be canceled.

(d) One year passes after the date the conditional license was issued, notwithstanding any suspension of the conditional license by the commission.

(10) If a conditional licensee fails to maintain acceptable proof of its financial responsibility as required under section 803, the commission shall summarily suspend the conditional license under section 92(2) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, until the conditional licensee files an acceptable proof of financial responsibility form under section 803. If a conditional license is revoked, the conditional licensee shall not recover from this state or a unit of local government any compensation for property, future income, or future economic loss because of the revocation.

(11) On issuing a conditional license under subsection (7), the commission shall, until the conditional license expires under subsection (9), place the existing license under subsection (4) for which the applicant submitted the application that serves as the basis for the conditional license in escrow in compliance with R 436.1107 of the Michigan Administrative Code. If the conditional license expires under subsection (9), an existing licensee may do 1 of the following:

(a) Request that the commission release the license from escrow.

(b) Keep the license in escrow. The escrow date for compliance with R 436.1107 of the Michigan Administrative Code is the date the conditional license expires.

(12) The chair of the commission shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with liquor license issues. The chair of the commission shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the commission received and completed within the 90-day time period described in subsection (4).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (5).

(13) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2002, Act 76, Imd. Eff. Mar. 15, 2002;—Am. 2004, Act 266, Imd. Eff. July 23, 2004;—Am. 2005, Act 97, Imd. Eff. July 20, 2005;—Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005;—Am. 2006, Act 539, Imd. Eff. Dec. 29, 2006;—Am. 2008, Act 218, Imd. Eff. July 16, 2008;—Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2010, Act 279, Imd. Eff. Dec. 16, 2010;—Am. 2013, Act 236, Eff. May 22, 2014;—Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014;—Am. 2016, Act 315, Eff. Feb. 1, 2017.

**Constitutionality:** In *Granholm v Heald*, 544 US 460 (2005), the United States Supreme Court held that Michigan laws regulating direct shipment of alcohol to in-state consumers discriminated against interstate commerce in violation of clause 3 of section 8 of article 1 of the United States Constitution, and that the powers granted to states under the 21st Amendment to the United States Constitution do not authorize violation of other constitutional provisions.

#### **436.1526 Beer festival; issuance of special license; limitation; buying directly from licensed brewpub; "beer festival" defined.**

Sec. 526. (1) The commission may issue a special license under this section to any organization conducting a beer festival. The application shall conform to the following:

(a) Be submitted by a nonprofit entity composed primarily of brewers, microbrewers, and brewpubs, as determined by the commission.

(b) Involve an event having for its primary purpose the showcasing of beer and its production.

(c) Be accompanied by a fee of \$25.00 per day of the event.

(2) The special license shall not allow more than 6 events per calendar year conforming to the requirements of subsection (1).

(3) A holder of a special license issued under this section may buy a quantity of beer, as determined appropriate under the circumstances by the commission, directly from any licensed brewpub for consumption only at the licensed event.

(4) As used in this section and section 413, "beer festival" means an event at which the various types and kinds of beer and the production of that beer are showcased to the general public and at which the general public can purchase and sample the beer being showcased for consumption on the licensed premises.

**History:** Add. 2008, Act 258, Imd. Eff. Aug. 4, 2008.

**436.1527 Special license for nonprofit charitable organization; issuance; nontransferable; fee; auction.**

Sec. 527. (1) The commission may issue a special license to a nonprofit charitable organization that is exempt from the payment of taxes under the internal revenue code for the purpose of allowing the organization to sell, at auction, wine donated to the organization.

(2) A special license issued pursuant to subsection (1) is not transferable. The organization applying for the special license shall pay the fee required under section 525(1)(r).

(3) An auction permitted under subsection (1) may occur upon premises which are otherwise licensed under this act to allow the sale of alcoholic liquor for consumption on the licensed premises.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1529 Transfer of license or interest in license; notice of transfer of stock in licensed corporation or licensed limited partnership; investigation to ensure compliance; approval; transfer fee; inspection fee.**

Sec. 529. (1) A license or an interest in a license shall not be transferred from 1 person to another without the prior approval of the commission. For purposes of this section, the transfer in the aggregate to another person during any single licensing year of more than 10% of the outstanding stock of a licensed corporation or more than 10% of the total interest in a licensed limited partnership shall be considered to be a transfer requiring the prior approval of the commission.

(2) Not later than July 1 of each year, each privately held licensed corporation and each licensed limited partnership shall notify the commission as to whether any of the shares of stock in the corporation, or interest in the limited partnership, have been transferred during the preceding licensing year. The commission may investigate the transfer of any number of shares of stock in a licensed corporation, or any amount of interest in a licensed limited partnership, for the purpose of ensuring compliance with this act and the rules promulgated under this act.

(3) Except as otherwise provided in subdivisions (a) through (f), upon approval by the commission of a transfer subject to subsection (1), there shall be paid to the commission a transfer fee equal to the fee provided in this act for the class of license being transferred. A transfer fee shall not be prorated for a portion of the effective period of the license. If a person holding more than 1 license or more than 1 interest in a license at more than 1 location, but in the name of a single legal entity, transfers all of the licenses or interests in licenses simultaneously to another single legal entity, the transfers shall be considered 1 transfer for purposes of determining a transfer fee, payable in an amount equal to the highest license fee provided in this act for any of the licenses, or interests in licenses, being transferred. A transfer fee shall not be required in regard to any of the following:

(a) The transfer, in the aggregate, of less than 50% of the outstanding shares of stock in a licensed corporation or less than 50% of the total interest in a licensed limited partnership during any licensing year.

(b) The exchange of the assets of a licensed sole proprietorship, licensed general partnership, or licensed limited partnership for all outstanding shares of stock in a corporation in which either the sole proprietor, all members of the general partnership, or all members of the limited partnership are the only stockholders of that corporation. An exchange under this subdivision shall not be considered an application for a license for the purposes of section 501.

(c) The transfer of the interest in a licensed business of a deceased licensee, a deceased stockholder, or a deceased member of a general or limited partnership to the deceased person's spouse or children.

(d) The removal of a member of a firm, a stockholder, a member of a general partnership or limited partnership, or association of licensees from a license.

(e) The addition to a license of the spouse, son, daughter, or parent of any of the following:

(i) A licensed sole proprietor.

(ii) A stockholder in a licensed corporation.

(iii) A member of a licensed general partnership, licensed limited partnership, or other licensed association.

(f) The occurrence of any of the following events:

- (i) A corporate stock split of a licensed corporation.
  - (ii) The issuance to a stockholder of a licensed corporation of previously unissued stock as compensation for services performed.
  - (iii) The redemption by a licensed corporation of its own stock.
- (4) A nonrefundable inspection fee of \$70.00 shall be paid to the commission by an applicant or licensee at the time of filing any of the following:
- (a) An application for a new license or permit.
  - (b) A request for approval of a transfer of ownership or location of a license.
  - (c) A request for approval to increase or decrease the size of the licensed premises, or to add a bar.
  - (d) A request for approval of the transfer in any licensing year of any of the shares of stock in a licensed corporation from 1 person to another, or any part of the total interest in a licensed limited partnership from 1 person to another.
- (5) An inspection fee shall be returned to the person by whom it was paid if the purpose of the inspection was to inspect the physical premises of the licensee, and the inspection was not actually conducted. An inspection fee shall not be required for any of the following:
- (a) The issuance or transfer of a special license, salesperson license, limited alcohol buyer license, corporate salesperson license, hospital permit, military permit, or Sunday sale of spirits permit.
  - (b) The issuance of a new permit, or the transfer of an existing permit, if the permit is issued or transferred simultaneously with the issuance or transfer of a license or an interest in a license.
  - (c) The issuance of authorized but previously unissued corporate stock to an existing stockholder of a licensed corporation.
  - (d) The transfer from a corporation to an existing stockholder of any of the corporation's stock that is owned by the corporation itself.
- (6) All inspection fees collected under this section shall be deposited in the special fund in section 543 for carrying out of the licensing and enforcement provisions of this act.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

**436.1531 Public license and resort license; on-premises escrowed license; limitations and quotas; additional licenses for certain establishments; license for certain events at public university; outdoor stadium; economic development factors; exceptions as to certain veterans and airports; special state census of local governmental unit; rules; availability of transferable licenses held in escrow; on-premises escrowed or quota license; issuance of available licenses; report; hotels; escrowed specially designated distributor license; transfer; applicability of administrative rule; definitions.**

Sec. 531. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. An on-premises escrowed license issued under this subsection may be transferred, subject to local legislative approval under section 501(2), to an applicant whose proposed operation is located within any local governmental unit in a county in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license may be transferred, subject to local legislative approval under section 501(2), to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of an on-premises licensee of any class to reclassify to another class of on-premises license in a manner not in violation of law or this act, subject to the consent of the commission. The upgrading of a license resulting from a request under this subsection is subject to approval by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue no more than 550 licenses for a period not to exceed 12 months without regard to a limitation because of population and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 5 additional licenses per year to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, whose primary purpose is not for the sale of alcoholic liquor, and whose capital investment in real property, leasehold

improvement, and fixtures for the premises to be licensed is \$75,000.00 or more. Further, the commission shall issue 1 license under this subsection per year to an applicant located in a rural area that has a poverty rate, as defined by the latest decennial census, greater than the statewide average, or that is located in a rural area that has an unemployment rate higher than the statewide average for 3 of the 5 preceding years. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined under subsection (11) and subject to subsection (16) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to all of the following:

(a) The number of applications received under this subsection.

(b) The number of licenses granted and to whom.

(c) The number of applications rejected and the reasons they were rejected.

(d) The number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 15 resort economic development licenses per year. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of \$1,500,000.00.

(d) The establishment does not allow or permit casino gambling on the premises.

(5) In governmental units having a population of 50,000 or less, as determined by the last federal decennial census or as determined under subsection (11), in which the quota of specially designated distributor licenses, as provided by section 533, has been exhausted, the commission may issue not more than a total of 15 additional specially designated distributor licenses per year to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued under this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially designated distributor license issued under this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of that licensed location. A specially designated distributor license issued under section 533 may be located within 2,640 feet of a specially designated distributor license issued under this subsection. The person signing the application for a specially designated distributor license under this subsection shall state that he or she attempted to secure an escrowed specially designated distributor license or quota license and that, to the best of his or her knowledge, an escrowed specially designated distributor license or quota license is not readily available within the county in which the applicant for the specially designated distributor license under this subsection proposes to operate.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued under this subsection shall be issued only for events that are to be held from May 1 to September 30, are artistic in nature, and that are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license is valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license is \$50.00. A special purpose license may be issued only to a corporation that meets all of the following requirements:

(a) Is a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection

(1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. Except as otherwise provided in this subsection, a license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events. A license may be issued at an outdoor stadium customarily used for intercollegiate athletic events for not more than 30 consecutive days to a concessionaire of an entity granted exclusive use of a public university's property in conjunction with a hockey game sanctioned by an unincorporated not-for-profit association that operates a major professional ice hockey league consisting of teams located in Canada and in the United States or in conjunction with a professional international soccer match between 2 international soccer clubs as part of a tournament sanctioned by a not-for-profit association that is the governing body for soccer in the United States and organized and promoted by a match agent that is licensed by the international governing body for soccer if the concessionaire has entered into an agreement granting it control of the licensed premises for the purposes of complying with this act and rules promulgated under this act regarding the sale of alcoholic liquor. A nationally televised game between 2 professional hockey teams or 2 professional international soccer clubs played outdoors is considered an established outdoor program for the purposes of this subsection. Notwithstanding any provision of this act or any rule promulgated under this act, a concessionaire obtaining a license under this subsection may share the profits generated from that license with an unincorporated not-for-profit association that operates a major professional ice hockey league consisting of teams located in Canada and in the United States or an affiliated entity under a written contract reviewed by the commission or with a licensed match agent and a promoter that organizes and promotes international soccer matches under a written contract reviewed by the commission. If the established outdoor program is a nationally televised game between 2 professional hockey teams or 2 professional international soccer clubs, the commission may allow the promotion and advertising of alcoholic liquor brands on the campus of a public university where a concessionaire has been issued a license under this subsection for the duration of the license.

(8) In issuing a resort or resort economic development license under subsection (3), (4), or (5), the commission shall consider economic development factors of the area in issuing licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort or resort economic development license issued under subsection (3), (4), or (5) to another location. If the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section are not applicable to issuing a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is submitted for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section are not applicable to issuing a new license or renewing an existing license where the property or establishment to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(12) Before granting an approval as required in section 501(2) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. The local governmental unit shall provide public notice of the meeting to consider the granting of the license by the local governmental unit 2 weeks before the meeting.

(13) The person signing the application for an on-premises resort or resort economic development license shall state and verify that he or she attempted to secure an on-premises escrowed license or quota license and that, to the best of his or her knowledge, an on-premises escrowed license or quota license is not readily available within the county in which the applicant for the on-premises resort or resort economic development

license proposes to operate.

(14) The commission shall not issue an on-premises resort or resort economic development license if the county within which the resort or resort economic development license applicant proposes to operate has not issued all on-premises licenses available under subsection (1) or if an on-premises escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premises resort or resort economic development license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.

(15) The commission shall annually report to the legislature the names of the businesses issued licenses under this section and their locations.

(16) The commission shall not require a class A hotel or a class B hotel licensed under subsection (2), (3), or (4) to provide food service to registered guests or to the public.

(17) Subject to the limitation and quotas of subsection (1) and to local legislative approval under section 501(2), the commission may approve the transfer of ownership and location of an on-premises escrowed license within the same county to a class G-1 or class G-2 license or may approve the reclassification of an existing on-premises license at the location to be licensed to a class G-1 license or to a class G-2 license, subject to subsection (1). Resort or economic development on-premises licenses created under subsection (3) or (4) may not be issued as, or reclassified to, a class G-1 or class G-2 license.

(18) An escrowed specially designated distributor license may be transferred, with the consent of the commission, to an applicant whose proposed operation is located within any local governmental unit in a county in which the specially designated distributor license is located. If the local governmental unit within which the escrowed specially designated distributor license is located spans more than 1 county, the license may be transferred to an applicant whose proposed operation is located within any local governmental unit in either county. If the specially designated distributor license is activated within a local governmental unit other than that local governmental unit within which the specially designated distributor license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the specially designated distributor license.

(19) Subsection (8) of R 436.1135 of the Michigan administrative code does not apply to a transfer under subsection (18).

(20) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(i) The fair market value of the license, if determinable.

(ii) The size and scope of the proposed operation.

(iii) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 282, Imd. Eff. July 27, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998;—Am. 1999, Act 91, Imd. Eff. June 30, 1999;—Am. 2000, Act 399, Imd. Eff. Jan. 8, 2001;—Am. 2001, Act 223, Eff. Mar. 22, 2002;—Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002;—Am. 2004, Act 191, Imd. Eff. July 8, 2004;—Am. 2005, Act 97, Imd. Eff. July 20, 2005;—Am. 2012, Act 212, Imd. Eff. June 27, 2012;—Am. 2013, Act 237, Imd. Eff. Dec. 26, 2013;—Am. 2014, Act 135, Imd. Eff. May 27, 2014.

#### **436.1532 Issuance of club license; public notice; annual filing by club; conduct of club affairs and management.**

Sec. 532. (1) A club license allows the licensee to sell, for consumption on the licensed premises, beer, wine, mixed spirit drink, and spirits only to bona fide members of the club who have attained the age of 21 years. Except as otherwise provided in subsection (2), the commission shall not issue a license to a club unless the club has been in existence for a period of not less than 2 years before the application for the license.

(2) Public notice of the intent of the commission to issue the club license shall be given by publication in some newspaper published or in general circulation within the local governmental unit at least 10 days before the issuance of the license. A club that is a chapter of a national organization that has had a license for 10 or more years may apply for a license without a waiting period. Public notice of the commission's intent to renew the club license is not required.

(3) Except in the case of a club paying a maximum fee, within 10 days after February 1 of each year the club shall file with the commission a list of names and residences of its members and make a similar filing of the name and residence with the commission within 10 days after the election of an additional member. The annual filing shall also include a statement that the club's annual aggregate membership fees or dues and other

income, exclusive of the proceeds from the sale of alcoholic liquor, are sufficient to defray the annual rental of its leased or rented premises or, if the premises are owned by the club, are sufficient to meet the taxes, insurance, repairs, and interest on a mortgage on the premises.

(4) The affairs and management of the club shall be conducted by a board of directors, executive committee, or similar body chosen by the members. A member, officer, agent, or employee of the club shall not be paid, or directly or indirectly receive in the form of salary or other compensation, profits from the disposition of alcoholic liquor to the club or to the members of the club, beyond the amount of salary fixed and voted at meetings by the members or by its directors or other governing body and as reported by the club to the commission, within 3 months after the meeting.

**History:** Add. 2001, Act 223, Eff. Mar. 22, 2002.

#### **436.1533 Eligibility for license as specially designated merchant or specially designated distributor.**

Sec. 533. (1) A person may apply for a specially designated merchant license without holding or applying for any other license under this act.

(2) An applicant for a class C, class A hotel, class B hotel, class G-1, class G-2, tavern, or specially designated distributor license or a retailer licensed under this act to sell alcoholic liquor may apply for a license as a specially designated merchant.

(3) An applicant for a specially designated merchant license not in conjunction with an on-premises license, except as provided in section 229(1), or a person licensed under this act as a specially designated merchant only or a class B hotel may apply for a license as a specially designated distributor.

(4) In cities, incorporated villages, or townships, the commission shall issue only 1 specially designated distributor license for each 3,000 of population, or fraction of 3,000. The commission may waive the quota requirement if there is no existing specially designated distributor licensee within 2 miles of the applicant, measured along the nearest traffic route.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998;—Am. 2016, Act 137, Eff. Aug. 24, 2016.

#### **436.1534 Small distiller license.**

Sec. 534. (1) Upon application in a manner acceptable to the commission and payment of the appropriate license fee, the commission shall issue a small distiller license to a person annually manufacturing in Michigan spirits in an amount not exceeding 60,000 gallons, of all brands combined.

(2) 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.

(3) A small distiller may give samplings or tastings of brands it manufactures on the licensed premises.

(4) A small distiller shall comply with the server training requirements of section 906.

(5) This section does not allow the sale of spirits transacted or caused to be transacted by means of any mail order, internet, telephone, computer, device, or other electronic means.

**History:** Add. 2008, Act 218, Imd. Eff. July 16, 2008.

#### **436.1535 Vendor as authorized to do business.**

Sec. 535. A vendor shall be a person authorized to do business under the laws of this state.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

#### **436.1537 Classes of vendors permitted to sell alcoholic liquor at retail; sale of wine by wine maker; beer and wine tastings; brandy and spirits tasting; filling and selling growlers with beer; definitions.**

Sec. 537. (1) The following classes of vendors may sell alcoholic liquor at retail as provided in this section:

(a) Taverns, where beer and wine may be sold for consumption on the premises only.

(b) Class C licensee, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises.

(c) Clubs, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to bona fide members where consumption is limited to these members and their bona fide guests, who are 21 years of age or older.

(d) Direct shippers, where wine may be sold and shipped directly to the consumer.

(e) Hotels of class A, where beer and wine may be sold for consumption on the premises and in the rooms

of bona fide registered guests. Hotels of class B where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises and in the rooms of bona fide registered guests.

(f) Specially designated merchants, where beer and wine may be sold for consumption off the premises only.

(g) Specially designated distributors, where spirits and mixed spirit drink may be sold for consumption off the premises only.

(h) Special licensee, where beer and wine or beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only.

(i) Dining cars or other railroad or Pullman cars, watercraft, or aircraft, where alcoholic liquor may be sold for consumption on the premises only, subject to rules promulgated by the commission.

(j) Brewpubs, where beer manufactured on the premises by the licensee may be sold for consumption on or off the premises by any of the following licensees:

(i) Class C.

(ii) Tavern.

(iii) Class A hotel.

(iv) Class B hotel.

(k) Micro brewers and brewers, where beer produced by the micro brewer or brewer may be sold to a consumer for consumption on or off the brewery premises.

(l) Class G-1 licensee, where beer, wine, mixed spirit drink, and spirits may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(m) Class G-2 licensee, where beer and wine may be sold for consumption on the premises only to members required to pay an annual membership fee and consumption is limited to these members and their bona fide guests.

(n) Motorsports event licensee, where beer and wine may be sold for consumption on the premises during sanctioned motorsports events only.

(o) Wine maker, where wine may be sold by direct shipment, at retail on the licensed premises, and as provided for in subsections (2) and (3).

(p) Small distiller selling not more than 60,000 gallons of spirits manufactured by that licensee to the consumer at retail for consumption on or off the licensed premises in the manner provided for in section 534.

(q) Nonpublic continuing care retirement center license, where beer, wine, mixed spirit drink, mixed wine drink, and spirits may be sold at retail and served on the licensed premises to residents and bona fide guests accompanying the resident for consumption only on the licensed premises.

(r) A small wine maker or an out-of-state entity that is the substantial equivalent of a small wine maker, that holds a farmer's market permit, where wine may be sampled and sold at a farmer's market for consumption off the licensed premises.

(2) A wine maker may sell wine made by that wine maker in a restaurant for consumption on or off the premises if the restaurant is owned by the wine maker or operated by another person under an agreement approved by the commission and located on the premises where the wine maker is licensed.

(3) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker on the premises where the wine maker is licensed to manufacture wine. The wine maker may charge for the samples.

(4) A wine maker, with the prior written approval of the commission, may conduct wine tastings of wines made by that wine maker and may sell the wine made by that wine maker for consumption off the premises at a location other than the premises where the wine maker is licensed to manufacture wine, under the following conditions:

(a) The premises upon which the wine tasting occurs conforms to local and state sanitation requirements.

(b) Payment of a \$100.00 fee per location is made to the commission.

(c) The wine tasting locations are considered licensed premises, and the wine maker may include a charge for the samples.

(d) The wine tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.

(e) The premises and the licensee comply with and are subject to all applicable rules promulgated by the commission.

(5) Notwithstanding section 1025(1), an outstate seller of beer, an outstate seller of wine, a wine maker, a brewer, a micro brewer, or a specially designated merchant, or an agent of any of those persons, who does not hold a license allowing the consumption of alcoholic liquor on the premises at the same licensed address, may conduct beer and wine tastings on the licensed premises of a specially designated merchant under the following conditions:

(a) A customer is not charged for the tasting of beer or wine.

(b) The tasting samples provided to a customer do not exceed 3 servings at up to 3 ounces per serving of beer or 3 servings at up to 2 ounces of wine. A customer shall not be provided more than a total of 3 samples of beer or wine within a 24-hour period per licensed premises.

(c) The specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer has first obtained an annual beer and wine tasting permit approved by the commission.

(d) The commission is notified, in writing, a minimum of 10 working days before the event, regarding the date, time, and location of the event.

(6) During the time a beer or wine tasting is conducted under subsection (5), a specially designated merchant, outstate seller of beer, outstate seller of wine, wine maker, micro brewer, or brewer, or its agent or employee who has successfully completed a server training program as provided for in section 906, shall devote full time to the beer and wine tasting activity and shall perform no other duties, including the sale of alcoholic liquor for consumption off the licensed premises. Beer and wine used for the tasting must come from the specially designated merchant's inventory, and all open bottles must be removed from the premises on the same business day or resealed and stored in a locked, separate storage compartment on the licensed premises when not being used for the activities allowed by the permit.

(7) A wholesaler shall not conduct or participate in beer and wine tastings allowed under a permit issued under subsection (5).

(8) A beer and wine tasting under subsection (5) may only be conducted during the legal hours for the sale of alcoholic liquor by the licensee.

(9) A brandy manufacturer or small distiller, with the prior written approval of the commission, may conduct tastings of brandy and spirits made by that brandy manufacturer or small distiller and may sell the brandy and spirits made by that brandy manufacturer or small distiller for consumption off the licensed premises at a location other than the licensed premises where the brandy manufacturer or small distiller is licensed to manufacture brandy or spirits under the following conditions:

(a) The premises upon which the brandy and spirits tastings occur conform to local and state sanitation requirements.

(b) Payment of a \$100.00 fee per location is made to the commission.

(c) The brandy and spirits tasting locations are considered licensed premises.

(d) The brandy and spirits tasting takes place during the legal hours for the sale of alcoholic liquor by the licensee.

(e) The premises and the license comply with and are subject to all applicable rules promulgated by the commission.

(10) An eligible merchant may fill and sell growlers with beer for consumption off the premises under the following conditions:

(a) The premises where the filling of growlers takes place comply with the requirements for food service establishments under the food law, 2000 PA 92, MCL 289.1101 to 289.8111.

(b) The growler is sealed and has a label affixed to it that includes at least the brand name of the beer, the class of the beer, the net contents of the container, and the name of the retailer filling the growler.

(c) The eligible merchant or his or her agent or employee shall not fill a growler in advance of the sale.

(d) The eligible merchant or his or her agent or employee shall only utilize containers that have a capacity of 5 gallons or more to fill a growler.

(e) The beer to be dispensed has received a registration number from the commission and has been approved for sale by the commission.

(f) The eligible merchant complies with all applicable rules promulgated by the commission.

(11) As used in this section:

(a) "Eligible merchant" means a person that holds a specially designated merchant license and a class C, tavern, class A hotel, class B hotel, club, class G-1, or class G-2 license.

(b) "Growler" means any clean, refillable, resealable container that is exclusively intended, and used only, for the sale of beer for consumption off the premises and that has a liquid capacity that does not exceed 1 gallon.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2001, Act 223, Eff. Mar. 22, 2002;—Am. 2005, Act 166, Imd. Eff. Oct. 6, 2005;—Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005;—Am. 2008, Act 218, Imd. Eff. July 16, 2008;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2011, Act 298, Imd. Eff. Dec. 22, 2011;—Am. 2013, Act 101, Imd. Eff. July 2, 2013.

#### **436.1539 Marina as specially designated merchant or distributor; license; conditions.**

Sec. 539. A marina that is situated on 1 of the Great Lakes, on that part of an inland waterway or tributary connected to and navigable to 1 of the Great Lakes, or on a Great Lakes connecting waterway may be issued a

license as a specially designated merchant or specially designated distributor, notwithstanding the fact that the marina maintains motor vehicle fuel pumps on or adjacent to the licensed premises, or maintains a financial interest in any motor vehicle fuel pumps if both of the following conditions are met:

(a) The marina's primary business is the sale of boats or the provision of services and supplies to recreational power cruisers and sailboats of the type that typically travel on the Great Lakes.

(b) The fuel pumps are used for dispensing fuel only to boats described in subdivision (a).

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998.

#### **436.1541 Motor vehicle fuel pumps.**

Sec. 541. (1) Except as provided in subsections (2) to (6), the commission shall not allow an applicant for or the holder of a specially designated distributor license or specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises, unless both of the following conditions are met:

(a) One or both of the following conditions exist:

(i) The applicant or licensee is located in a neighborhood shopping center.

(ii) Subject to subsection (9), the applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$250,000.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(b) The site of payment and selection of alcoholic liquor is not less than 5 feet from that point where motor vehicle fuel is dispensed.

(2) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license or specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises, if all of the following conditions are met:

(a) The applicant is located in a township with a population of 7,000 or less that is not contiguous with any other township. For purposes of this subdivision, a township is not considered contiguous by water.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$12,500.00 at cost, of those goods and services customarily marketed by approved types of businesses.

(c) The applicant has the approval of the township, as evidenced by a resolution duly adopted by the township and submitted with the application to the commission.

(3) The commission shall not prohibit an applicant for or the holder of a specially designated merchant license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises if both of the following conditions are met:

(a) The applicant or licensee is located in any of the following:

(i) A city, incorporated village, or township with a population of 3,500 or less and a county with a population of 31,000 or more.

(ii) A city, incorporated village, or township with a population of 4,000 or less and a county with a population of less than 31,000.

(iii) A township in which the applicant or licensee is the only person that owns or operates motor fuel pumps within the township on the date of application. The commission shall not revoke a license that was granted under this subparagraph if a second person that owns or operates motor fuel pumps opens within the township after the original application was filed.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$10,000.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(4) The commission shall not prohibit an applicant for or the holder of a specially designated distributor license from owning or operating motor vehicle fuel pumps on or adjacent to the licensed premises if both of the following conditions are met:

(a) The applicant or licensee is located in either of the following:

(i) A city, incorporated village, or township with a population of 3,500 or less and a county with a population of 31,000 or more.

(ii) A city, incorporated village, or township with a population of 4,000 or less and a county with a population of less than 31,000.

(b) The applicant or licensee maintains a minimum inventory on the premises, excluding alcoholic liquor and motor vehicle fuel, of not less than \$12,500.00, at cost, of those goods and services customarily marketed by approved types of businesses.

(5) A person that was issued a specially designated merchant license or specially designated distributor license at a location at which another person owned, operated or maintained motor vehicle fuel pumps at the

same location may have or acquire an interest in the ownership, operation or maintenance of those motor vehicle fuel pumps.

(6) The commission may transfer ownership of a specially designated merchant license or specially designated distributor license to a person that owns or is acquiring an interest in motor vehicle fuel pumps already in operation at the same location at which the license is issued.

(7) If a specially designated merchant's licensed premises are a primary location, the commission may issue a secondary location permit to the specially designated merchant, as an extension of the specially designated merchant's license, for the sale of beer, wine, or both, at the secondary location. The commission shall issue a secondary location permit only to a specially designated merchant to which both of the following apply:

(a) The holder of the specially designated merchant license for the primary location premises or a subsidiary or affiliate of the license holder owns or leases the secondary location.

(b) The holder of the specially designated merchant license for the primary location or a subsidiary or affiliate of the license holder owns or operates motor vehicle fuel pumps at the secondary location under subsection (1).

(8) An applicant for a secondary location permit shall submit an application to the commission in a format provided by the commission and accompanied by an application and initial permit fee of \$100.00. The application must include a diagram of the secondary location with building dimensions and a depiction of the distance measurement described in subsection (1)(b). The secondary location permit expires on the same date as the specially designated merchant license and may be renewed in conjunction with the specially designated merchant license. The secondary location permit holder may renew the secondary location permit by submitting a permit renewal fee of \$100.00 and a completed renewal application.

(9) After a specially designated merchant is issued a secondary location permit under subsection (7) and if the specially designated merchant's licensed premises are a primary location that is not a neighborhood shopping center, for purposes of determining the minimum inventory condition described in subsection (1)(a)(ii), the primary location and the secondary location are considered 1 premises.

(10) After a specially designated merchant is issued a secondary location permit under subsection (7), if a subsidiary or affiliate of the specially designated merchant owns or operates the secondary location and the subsidiary or affiliate shares the same ultimate controlling party of the specially designated merchant, the secondary location may receive and sell beer, wine, or both under the specially designated merchant's license.

(11) The holder of a secondary location permit shall prominently display the secondary location permit at the secondary location in the point-of-sale area.

(12) As used in this section:

(a) "Neighborhood shopping center" means 1 commercial establishment, or a group of commercial establishments organized or operated as a unit, that is related in location, size, and type of shop to the trade area that the unit serves, and consists of not less than 50,000 square feet of leasable retail space, and has access to off-street parking spaces.

(b) "Primary location" means licensed premises that meet the conditions under subsection (1).

(c) "Secondary location" means a business operation of the holder of a specially designated merchant license for a primary location, or a subsidiary or affiliate of that license holder, that takes place on real property, that includes at least 1 building and 1 or more motor vehicle fuel pumps, and that is located on or adjacent to the primary location. Upon commission approval of the secondary location permit, the secondary location is considered licensed premises and an extension of the licensed primary location.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—2006, Act 253, Imd. Eff. July 3, 2006;—Am. 2008, Act 489, Imd. Eff. Jan. 13, 2009;—Am. 2016, Act 84, Eff. July 11, 2016.

#### **436.1543 Disposition and use of retailers' license and license renewal fees; special fund; direct shipper enforcement revolving fund; wine auction license fee; "license fee enhancement" defined; allocation to general fund.**

Sec. 543. (1) Quarterly, upon recommendation of the commission, the state shall pay pursuant to appropriation in the manner prescribed by law to the city, village, or township in which a full-time police department or full-time ordinance enforcement department is maintained or, if a police department or full-time ordinance enforcement department is not maintained, to the county, to be credited to the sheriff's department of the county in which the licensed premises are located, 55% of the amount of the proceeds of the retailers' license fees and license renewal fees collected in that jurisdiction, for the specific purpose of enforcing this act and the rules promulgated under this act. Forty-one and one-half percent of the amount of the proceeds of retailers' license and license renewal fees collected shall be deposited in a special fund to be annually appropriated to the commission for carrying out the licensing and enforcement provisions of this act.

Any unencumbered or uncommitted money in the special fund shall revert to the general fund of the state 12 months after the end of each fiscal year in which the funds were collected. The legislature shall appropriate 3-1/2% of the amount of the proceeds of retailers' license and license renewal fees collected to be credited to a special fund in the state treasury for the purposes of promoting and sustaining programs for the prevention, rehabilitation, care, and treatment of alcoholics. This subsection does not apply to retail license fees collected for railroad or Pullman cars, watercraft, aircraft, or wine auctions or to the transfer fees provided in section 529.

(2) All license and license renewal fees, other than retail license and license renewal fees, shall be credited to the grape and wine industry council created in section 303, to be used as provided in section 303. Money credited to the grape and wine industry council shall not revert to the state general fund at the close of the fiscal year, but shall remain in the account to which it was credited to be used as provided in section 303.

(3) All retail license fees collected for railroad or Pullman cars, watercraft, or aircraft and the transfer fees provided in section 529 shall be deposited in the special fund created in subsection (1) for carrying out the licensing and enforcement provisions of this act.

(4) The license fee enhancement imposed for licenses issued under section 531(3) and (4) shall be deposited into a special fund to be annually appropriated to the commission for enforcement and other related projects determined appropriate by the commission. The money representing that amount of the license fees for identical licenses not issued under section 531(3) and (4) shall be allocated and appropriated under subsection (1).

(5) The license fee imposed on direct shipper licenses and any violation fines imposed by the commission shall be deposited into the direct shipper enforcement revolving fund. The direct shipper enforcement revolving fund is created within the state treasury. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The commission shall expend money from the fund, upon appropriation, only for enforcement of the provisions of section 203 and related projects.

(6) One hundred percent of the wine auction license fee imposed in section 525(1)(aa) shall be deposited into the general fund.

(7) As used in this section, "license fee enhancement" means the money representing the difference between the license fee imposed for a license under section 525(1) and the additional amount imposed for resort and resort economic development licenses under section 525(2).

(8) Notwithstanding any other provision of this section, the additional \$160.00 license fee imposed upon any licensee selling alcoholic liquor between the hours of 7 a.m. on Sunday and 12 noon on Sunday is allocated to the general fund.

**History:** 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2005, Act 97, Imd. Eff. July 20, 2005;—Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005;—Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010.

\*\*\*\*\* 436.1545 THIS SECTION IS AMENDED EFFECTIVE MARCH 8, 2017: See 436.1545.amended \*\*\*\*\*

#### **436.1545 "Nonpublic continuing care retirement center" defined; license.**

Sec. 545. (1) As used in this act, "nonpublic continuing care retirement center" means a residential community that, as determined by the commission, meets both of the following conditions:

(a) Provides full-time residential housing predominantly for individuals over the age of 62.

(b) Is registered as a facility under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844.

(2) The commission, upon submission of a completed application, shall grant a nonpublic continuing care retirement center license to an applicant complying with this section. The total number of licenses issued under this section shall not exceed 20. If the holder of a license issued under this section goes out of business, the license shall be surrendered to the commission. The commission may allow the transfer of such a license to a new business owner upon transfer of the owner's interest in the business.

(3) The nonpublic continuing care retirement center license allows the licensee to sell at retail and serve on the licensed premises beer, wine, mixed spirit drink, mixed wine drink, and spirits, for consumption by a resident or the bona fide guests accompanying the resident, only on the licensed premises.

**History:** Add. 2010, Act 213, Imd. Eff. Nov. 17, 2010.

\*\*\*\*\* 436.1545.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 8, 2017 \*\*\*\*\*

#### **436.1545.amended "Nonpublic continuing care retirement center" defined; license;**

**limitation.**

Sec. 545. (1) As used in this act, "nonpublic continuing care retirement center" means a residential community that, as determined by the commission, meets both of the following conditions:

(a) Provides full-time residential housing predominantly for individuals over the age of 62.

(b) Meets 1 of the following conditions:

(i) Is registered as a facility under former 1976 PA 440 or the continuing care community disclosure act, 2014 PA 448, MCL 554.901 to 554.993.

(ii) Is a home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(2) The commission, on submission of a completed application, shall grant a nonpublic continuing care retirement center license to an applicant complying with this section. Subject to subsection (4), the commission shall not issue more than 25 licenses under this section. If the holder of a license issued under this section goes out of business, the license must be surrendered to the commission. The commission may allow the transfer of a surrendered license to a new business owner on transfer of the owner's interest in the business if the new business owner meets the same condition under subsection (1)(b) as the previous business owner.

(3) The holder of a nonpublic continuing care retirement center license may sell at retail and serve on the licensed premises beer, wine, mixed spirit drink, mixed wine drink, and spirits, for consumption by a resident or the bona fide guests accompanying the resident, only on the licensed premises.

(4) The commission shall not issue more than 20 licenses under this section to facilities described in subsection (1)(b)(i). The commission shall not issue more than 5 licenses under this section to homes for the aged described in subsection (1)(b)(ii).

**History:** Add. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2016, Act 328, Eff. Mar. 8, 2017.

**436.1547 Definitions; catering permits.**

Sec. 547. (1) As used in this section:

(a) "Private event" means an event where no consideration, as defined in section 913, is paid by the guests.

(b) "Catering permit" means a permit issued by the commission to a specially designated distributor, specially designated merchant, or holder of a public on-premises license for the sale of beer, wine, or spirits, or any combination thereof, that is also licensed as a food service establishment or retail food establishment under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111, which permit authorizes the permit holder to sell and deliver beer, wine, and spirits in the original sealed container to a person for off-premises consumption but only if the sale is not by the glass or drink and the permit holder serves the beer, wine, or spirits. The permit does not allow the permit holder to deliver, but not serve, the beer, wine, or spirits.

(2) Spirits sold by a specially designated distributor, specially designated merchant, or on-premises licensee under a catering permit shall not be sold at less than the minimum retail selling price fixed by the commission, including under rules promulgated by the commission for specially designated distributors under section 229.

(3) The commission may issue a catering permit to a specially designated distributor, specially designated merchant, or public on-premises licensee, as a supplement to that license, to allow the sale and delivery of beer, wine, or spirits in the original sealed container at locations other than the licensed premises and to require the catering permit holder to serve beer, wine, or spirits at the private event where the alcoholic liquor is not resold to guests. The commission shall not issue a catering permit to an applicant who delivers beer, wine, or spirits but does not serve the beer, wine, or spirits.

(4) This section does not limit the number of catering permits the commission may issue within any local unit of government.

(5) This section does not prevent a catering permit holder from using the catering permit at multiple locations and events during the same time period.

(6) This section does not prohibit a catering permit holder from selling beer, wine, or spirits to a person who has obtained a special license if that catering permit holder serves the beer, wine, or spirits and complies with all catering permit rules promulgated by the commission.

(7) An applicant for a catering permit shall apply on a form approved and provided by the commission and pay an application and processing fee of \$70.00 and a catering permit fee of \$100.00 on the issuance of the catering permit. The applicant shall also pay the catering permit fee on renewal of the specially designated distributor, specially designated merchant, or on-premises licensee.

(8) The person delivering the beer, wine, or spirits under a catering permit shall verify that the individual accepting delivery is at least 21 years of age. The catering permit holder may utilize a third party that provides delivery service to municipalities in this state that are surrounded by water and inaccessible by motor vehicle

to deliver beer, wine, or spirits to the designated location of the private event if the delivery service is approved by the commission and agrees to verify that the individual accepting delivery of the beer, wine, or spirits is at least 21 years of age.

(9) A catering permit holder providing the service, or an employee of the catering permit holder, shall successfully complete a server training program approved by the commission before providing the service.

(10) A catering permit holder delivering the beer, wine, or spirits, or an employee of the catering permit holder, shall have in his or her possession while delivering the beer, wine, or spirits documentation demonstrating that the beer, wine, or spirits being delivered are for a private event being conducted under this section.

(11) A catering permit holder who prepares food or drink for direct consumption through service on the premises or elsewhere shall comply with the requirements for food service establishments under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(12) A catering permit holder is subject to all sanctions, liabilities, and penalties provided under this act or under law.

**History:** Add. 2011, Act 20, Imd. Eff. Apr. 20, 2011.