

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

436.1603 Interest in business of other vendor prohibited; placing stock in portfolio under arrangement, trust agreement, or investment trust agreement; issuance and sale of participating shares within state; prohibitions; sale of brandy and spirits by manufacturer or small distiller; conditions; sale by small distiller; interest of brewpub in other locations; interest in business of other supplier; approval pursuant to R 436.1023(3); interest of manufacturer in wholesaler prohibited; delivery of wine by wine maker to retail licensees prohibited; tiers; application of subsection (13); manufacturing of private label; definitions.

Sec. 603. (1) Except as provided in subsections (5) to (9), subsections (14) to (16), and section 605, a supplier, warehouse, or wholesaler shall not have any direct or indirect financial interest in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(2) Except as provided in subsections (5) to (9), subsections (14) to (16), and section 605, a supplier, warehouse, or wholesaler or a stockholder of a supplier, warehouse, or wholesaler shall not have any direct or indirect interest by ownership in fee, leasehold, mortgage, or otherwise in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(3) Except as provided in subsections (5) to (9), subsections (14) to (16), and section 605, a supplier, warehouse, or wholesaler shall not have any direct or indirect interest by interlocking directors in a corporation or by interlocking stock ownership in a corporation in the establishment, maintenance, operation, or promotion of the business of any other vendor.

(4) Except as provided in subsections (5) to (9), subsections (14) to (16), and section 605, a person shall not buy the stocks of a supplier, warehouse, or wholesaler and place the stock in any portfolio under an arrangement, written trust agreement, or form of investment trust agreement, issue participating shares based on the portfolio, trust agreement, or investment trust agreement, and sell the participating shares within this state.

(5) The commission may approve a brandy manufacturer or small distiller to sell brandy and spirits made by that brandy manufacturer or small distiller in a restaurant for consumption on or off the premises if the restaurant is owned by the brandy manufacturer or small distiller or operated by another person under an agreement approved by the commission and is located on premises where the brandy manufacturer or small distiller is licensed. Brandy and spirits sold for consumption off the premises under this subsection must be sold at the uniform price established by the commission.

(6) The commission shall allow a small distiller to sell brands of spirits it manufactures for consumption on the licensed premises at that distillery.

(7) A brewpub may have an interest in up to 5 other brewpubs if the combined production of all the locations in which the brewpub has an interest does not exceed 18,000 barrels of beer per calendar year.

(8) This section does not prohibit a supplier from having any direct or indirect interest in any other supplier.

(9) The commission may approve the following under R 436.1023(3) of the Michigan Administrative Code, subject to the written approval of the United States Department of Treasury Alcohol and Tobacco Tax and Trade Bureau:

(a) A wine maker participating with 1 or more wine makers in an alternating proprietor operation in accordance with 27 CFR 24.136.

(b) A brewer participating with 1 or more brewers in an alternating proprietor operation in accordance with 27 CFR 25.52.

(10) A manufacturer shall not have any direct or indirect interest in a wholesaler.

(11) A wine maker shall not collectively deliver wine, with any other wine maker, to retailers.

(12) Except for a warehouse, all licensees in this state must be separated into 3 distinct and independent tiers composed of the following:

(a) Supplier tier, comprising suppliers.

(b) Wholesaler tier, comprising wholesalers.

(c) Retailer tier, comprising retailers.

(13) Except as otherwise provided in subsection (14), the commission shall not allow any of the following:

(a) A retailer to hold, directly or indirectly, a license in the wholesaler or supplier tier.

(b) A wholesaler to hold, directly or indirectly, a license in the retailer or supplier tier.

(c) A supplier to hold, directly or indirectly, a license in the wholesaler or retailer tier.

(14) Subsection (13) does not prohibit a class C, tavern, class A hotel, or class B hotel licensee from

receiving a brewpub license or a micro brewer or brewer from having an on-site restaurant.

(15) A person licensed in the supplier tier may manufacture a private label of beer, wine, or mixed spirit drink for a retailer if the commission determines that all the following requirements are met:

(a) The supplier registers the private label with the commission as required under R 436.1611, R 436.1719, and R 436.1829 of the Michigan Administrative Code.

(b) The supplier, independent of the retailer's involvement, appoints 1 or more wholesalers to distribute the private label as required under section 307 or 401, as applicable. However, if the supplier is a micro brewer, the supplier may distribute the private label in accordance with section 203a.

(c) The supplier complies with and does not violate section 305 or 403, as applicable.

(d) The wholesaler engages in commercially reasonable efforts to make the private label available to a retailer that places an order for the private label beer, wine, or mixed spirit drink.

(e) An appointed wholesaler remains the wholesaler for the private label and any brand extensions of the private label regardless of whether the retailer switches the supplier that manufactures the private label, unless the wholesaler is terminated under section 305 or 403, as applicable.

(16) The commission shall not issue a wholesaler license to a producer of nonalcoholic beverages or an entity that the producer of nonalcoholic beverages has a direct or indirect ownership or financial interest in, if the producer of nonalcoholic beverages or the entity the producer of nonalcoholic beverages has a direct or indirect ownership or financial interest in has a direct or indirect ownership or financial interest in a person licensed in the supplier tier.

(17) As used in this section:

(a) "Manufacturer" means, notwithstanding section 109(2), a wine maker, small wine maker, brewer, micro brewer, manufacturer of spirits, distiller, small distiller, brandy manufacturer, mixed spirit drink manufacturer, direct shipper, a licensee with an approved tasting room, or a person licensed by the commission to perform substantially similar functions.

(b) "Private label" means a brand of beer, wine, or mixed spirit drink that is manufactured by a supplier on behalf of a retailer using the retailer's recipe or intellectual property.

(c) "Supplier" means a manufacturer, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, and vendor of spirits or a person licensed by the commission to perform substantially similar functions but does not include a master distributor.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2008, Act 218, Imd. Eff. July 16, 2008;—Am. 2009, Act 2, Imd. Eff. Mar. 27, 2009;—Am. 2010, Act 213, Imd. Eff. Nov. 17, 2010;—Am. 2011, Act 298, Imd. Eff. Dec. 22, 2011;—Am. 2014, Act 43, Imd. Eff. Mar. 25, 2014;—Am. 2018, Act 407, Imd. Eff. Dec. 19, 2018;—Am. 2021, Act 19, Eff. Aug. 23, 2021;—Am. 2022, Act 226, Imd. Eff. Oct. 14, 2022.

Compiler's note: Enacting section 1 of Act 226 of 2022 provides:

"Enacting section 1. R 436.1625 and R 436.1726 of the Michigan Administrative Code are rescinded".