

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

436.1609a Filing by manufacturer or wholesaler; schedule of net cash prices; beer package price; sale of beer at quantity discount prohibited; disclosure of filing under subsections (1) and (2); comparison of filing under subsections (1) and (2) with tax filing; inapplicability to a brewpub; filing of prices; prohibition on quantity discounts; reasons for regulation.

Sec. 609a. (1) A manufacturer or wholesaler shall file with the commission a schedule of net cash prices to the retailer for all brands of case and keg beer for its market area. If a person sells beer that has not received a registration number from the commission in violation of subrule (1)(d) of R 436.1611 of the Michigan Administrative Code and if a wholesaler files a schedule of net cash prices as required under this subsection, both of the following apply:

(a) The wholesaler is not considered to have violated subrule (1)(d) of R 436.1611 of the Michigan Administrative Code.

(b) A retailer is not considered to have violated subrule (1)(d) of R 436.1611 of the Michigan Administrative Code.

(2) A manufacturer or wholesaler shall file with the commission a beer package price change for its market area. The manufacturer or wholesaler shall file the price change before its effective date. A price reduction under this subsection must continue for at least 90 days after the effective date.

(3) The beer package price for a market area may be increased during the 90-day period described in subsection (2) for any of the following reasons:

(a) To reflect a tax increase in the market area.

(b) To reflect a general industry price increase in the market area.

(4) The beer package price for a market area may be decreased during the 90-day period described in subsection (2) if both of the following conditions are met:

(a) The price reduction is not greater on a cents-per-case basis than the price reduction filed by the competition.

(b) The price reduction continues for the balance of the 90 days filed by the competition.

(5) A manufacturer or wholesaler shall not sell beer at a quantity discount.

(6) A net cash price filed under subsection (1) and a price change filed under subsection (2) are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, until 1 year after the net cash price or price change is filed, as applicable.

(7) The commission shall periodically compare a manufacturer's or wholesaler's filing under subsection (1) or (2) with the manufacturer's or wholesaler's tax filing under section 409.

(8) This section does not apply to a brewpub.

(9) Beginning July 1, 2020, the commission shall not implement or enforce subrule (1)(c) and (d) of R 436.1611 of the Michigan Administrative Code for products manufactured by a brewer and for products that a micro brewer or brewer sell exclusively at its tasting room or to a beer festival. As used in this subsection, "beer festival" means that term as defined in section 526.

(10) A manufacturer or wholesaler shall file with the commission a schedule of the net cash prices to retailers for all wine, mixed wine drink, and mixed spirit drink by kind, type, size, and brand.

(11) A manufacturer or wholesaler shall file with the commission a wine, mixed wine drink, and mixed spirit drink price change for its market area. The manufacturer or wholesaler shall file the price change before its effective date. A price change under this subsection must continue for at least 2 weeks after the effective date.

(12) A manufacturer or wholesaler shall not charge a retailer a fee in addition to the net cash prices filed under this section, except for a split case fee. If a manufacturer or wholesaler charges a split case fee to a retailer, the fee must be at the same per unit rate, nondiscriminatory, and not be based on a sliding scale. A manufacturer or wholesaler shall file with the commission a split case fee charged under this subsection.

(13) A manufacturer or wholesaler shall not sell wine, mixed wine drink, and mixed spirit drink at a quantity discount.

(14) A net cash price filed under subsection (10) and a price change filed under subsection (11) are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243, until 1 year after the net cash price or price reduction is filed, as applicable.

(15) The commission shall periodically compare a manufacturer's or wholesaler's filing under subsections (10) and (11) with the manufacturer's or wholesaler's tax filing under section 301.

(16) The regulation described in this section is necessary for both of the following reasons:

(a) To promote temperance and the public health and welfare.

(b) To promote a stable 3-tier distribution system with orderly markets for wine and malt beverage products in which there is no price discrimination by a wholesaler in its sales to retailers within the wholesaler's sales territory.

History: Add. 2016, Act 81, Imd. Eff. Apr. 12, 2016;—Am. 2020, Act 119, Imd. Eff. July 1, 2020;—Am. 2022, Act 227, Imd. Eff. Oct. 14, 2022.