

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)

Act 58 of 1998

436.1611 Refund or credit of tax paid on wine, mixed spirit drink, or beer; conditions; time limitation; form and contents of claim; supporting evidence; removal or destruction of damaged wine, beer, or mixed spirit drink; applicability of section; rebate of tax paid on wine or mixed spirit drink.

Sec. 611. (1) A refund or credit of the tax on wine or mixed spirit drink paid under section 301 and of the tax on beer paid under section 409 shall be made by the commission to a brewer, wine maker, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, manufacturer of mixed spirit drink, wholesaler, or retail licensee who paid the tax if the wine, beer, or mixed spirit drink was sold to a military installation or Indian reservation in this state or, subject to subsection (2), if the wine, beer, or mixed spirit drink is lost, made unmarketable, or condemned by order of the commission as the result of a fire, flood, casualty, or other occurrence. A refund or credit shall not be made as the result of theft.

(2) A refund or credit of taxes as provided in subsection (1) shall be made for damaged wine, beer, or mixed spirit drink only if all of the following circumstances exist:

(a) At the time of the fire, flood, casualty, or other occurrence, the wine, beer, or mixed spirit drink was being held for sale by the vendor claiming the refund or credit.

(b) The refund or credit of the amount claimed or any part of the amount claimed has not been and will not be claimed for the same wine, beer, or mixed spirit drink under any other law or rule.

(c) The vendor claiming the refund or credit is not indemnifiable by any valid claim of insurance or otherwise for the tax on the wine, beer, or mixed spirit drink covered by the claim.

(d) The amount claimed for a refund or credit is more than \$250.00 or the refund or credit is claimed for defective wine, beer, or mixed spirit drink for which the commission has authorized a manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, manufacturer of mixed spirit drink, or wholesaler to make an exchange, have replaced, or be reimbursed.

(e) The occurrence was not caused by an intentional act of the vendor claiming the refund or credit or an agent of that vendor.

(3) A claim for a refund or credit of the tax as provided in subsection (1) shall be made not later than 3 months after either of the following:

(a) The date upon which the damage occurred or was first discovered.

(b) The date of the sale to a military installation or Indian reservation in this state.

(4) A claim for a refund or credit of the tax as provided in subsection (1) shall be submitted to the commission on a form approved by the commission. The claim shall contain the following information, as applicable:

(a) The name and business address of the vendor claiming the refund or credit.

(b) The address where the wine, beer, or mixed spirit drink was lost, made unmarketable, or condemned, if different from the business address.

(c) The address of the military installation or Indian reservation to which the wine, beer, or mixed spirit drink was sold.

(d) The kind of wine, beer, or mixed spirit drink.

(e) The size of bottles or containers.

(f) The number of bottles or containers.

(g) The total amount of wine, beer, or mixed spirit drink that was sold or damaged. The amount shall be stated in liters or portions of liters for wine and mixed spirit drink and barrels or portions of barrels for beer.

(h) A statement that other claims for a refund or credit of the amount claimed or for any part of the amount claimed have not been and will not be made.

(i) A statement that the vendor has not been indemnified by a valid claim of insurance or otherwise for the tax on the wine, beer, or mixed spirit drink covered by the claim.

(j) Evidence that the tax on the wine, beer, or mixed spirit drink has been paid.

(k) Evidence that the wine, beer, or mixed spirit drink was lost, made unmarketable, or condemned by reason of damage sustained as the result of a fire, flood, casualty, or other occurrence.

(l) A statement as to the type and date of the occurrence.

(m) A statement that the occurrence was not caused by an intentional act of the vendor claiming the refund or credit or an agent of that vendor.

(5) The vendor claiming the refund or credit for damaged wine, beer, or mixed spirit drink shall support a claim with any evidence, such as an inventory, statement, invoice, bill, record, or label, relating to the quantity of wine, beer, or mixed spirit drink on hand at the time of the fire, flood, casualty, or other disaster

and alleged to have been lost, made unmarketable, or condemned as a result of the damage.

(6) Before or after a tax refund or credit has been made for damaged wine, beer, or mixed spirit drink, the wine, beer, or mixed spirit drink upon which the refund or credit is based shall be removed from this state or destroyed under the supervision of the commission.

(7) In addition to the provisions of this section, the tax paid on wine or mixed spirit drink pursuant to section 301 shall be rebated to the person who paid the tax upon the presentation of satisfactory proof to the commission that the wine or mixed spirit drink was shipped outside of this state for sale and consumption outside of this state.

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