

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

436.1906 Definitions; server training program.

Sec. 906. (1) As used in this section:

(a) "Administrator" means a qualifying company, postsecondary educational institution, or trade association authorized by the commission to offer server training programs and instructor certification classes in compliance with this section and to certify to the commission that those persons meet the requirements of this section.

(b) "Instructor" means an individual certified by an administrator and approved by the commission to teach server training programs. An instructor may be a licensee or an employee of a licensee.

(c) "Prohibited sale" means the sale of alcoholic liquor by an employee of a licensee to a visibly intoxicated person or to a minor, or both.

(d) "Responsible vendor" means a designation by the commission of a retail licensee meeting the standards of this section.

(e) "Server training program" means an educational program whose curriculum has been approved by the commission under the standards described in this section and is offered by an administrator or instructor to a retail licensee, or a licensee operating a tasting room or providing samples of alcoholic liquor, for its employees.

(2) The commission shall approve the establishing of a server training program designed for all new on premises licensees or transferees of more than a 50% interest in an on premises license on or after the commencement of the mandatory server training program, and for any existing retail licensees the commission determines to be in need of training due to the frequency or types of violations of this act involving the serving of alcoholic liquor. This subsection does not apply to special licenses except that the commission may require server training for certain special licensees based upon the size and nature of the licensed event. The commission may adopt the existing standards and programmatic framework of private entities and may delegate nondiscretionary administrative functions to outside private entities.

(3) The commission shall establish a program in which the commission designates certain retail licensees, except special licenses, as responsible vendors. The commission may adopt the existing standards and programmatic framework of private entities and may delegate nondiscretionary administrative functions to outside private entities.

(4) The commission shall designate as a responsible vendor a retail licensee who makes available to all full-time and part-time retail employees, within 60 days after being hired, a server training program and who is also free of convictions or administrative determinations involving prohibited sales for not less than 12 months before applying for the designation. The designation continues until suspended by the commission.

(5) A person may apply to the commission for qualification as an administrator for the offering of server training programs and instructor certification classes.

(6) The commission shall approve a curriculum for a server training program presented by a certified instructor in a manner considered by the commission to be adequate that includes, but is not limited to, all of the following topics:

(a) The identification of progressive stages of intoxication and the visible signs associated with each stage.

(b) The identification of the time delay between consumption and visibility of signs of progressive intoxication.

(c) Basic alcohol content among different types of measured drinks containing alcoholic liquor.

(d) Variables associated with visible intoxication, including the rate of drinking, experience, weight, food consumption, sex, and use of other drugs.

(e) Personal skills to handle slow-down of service and intervention procedures.

(f) Procedures for monitoring consumption and maintaining incident reports.

(g) The understanding of acceptable forms of personal identification, techniques for determining the validity of identification, and procedures for dealing with fraudulent identification.

(h) Assessment of the need to ask for identification based on appearance or company policy.

(i) The identification of potential second-party sales and furnishing of alcoholic liquor to minors by persons 21 years of age or over.

(j) The understanding of possible legal, civil, and administrative consequences of violations of this act, the rules of the commission, and other pertinent state laws.

(k) The understanding of Michigan laws pertaining to minors attempting to purchase, minors in possession, and second-party sales or furnishing of alcoholic liquor from adults to minors.

(l) Knowledge of the legal hours of alcoholic liquor service and occupancy.

(m) The identification of signs of prohibited activities, such as gambling, solicitation for prostitution, and drug sales.

(n) Any other pertinent laws as determined by the commission.

(7) The commission shall issue an instructor certification to an individual presenting evidence acceptable to the commission of having successfully completed instructor certification classes and shall issue an identification card indicating that certification by the commission.

(8) Upon approval by the commission of a server training program, the commission shall appoint the person sponsoring the server training program as an administrator of that program. The administrator shall provide a certification to the commission that a retail licensee has successfully completed the server training program offered by a certified instructor and approved by the commission and shall recommend that the commission designate the licensee as a responsible vendor.

(9) A certified instructor who is a licensee or an employee of a licensee may offer server training programs approved by the commission to the employees of the licensee and certify to the commission those persons who successfully completed the program.

(10) An on premises licensee whose license was issued or who was the transferee of more than a 50% interest in an on premises license on or after the commencement of the mandatory server training program or an on premises licensee determined by the commission to be in need of training due to the frequency or types of violations of this act involving the serving of alcoholic liquor must have employed or present on the licensed premises, at a minimum, supervisory personnel who have successfully completed a server training program on each shift and during all hours in which alcoholic liquor is served. An on premises licensee must keep a copy of the responsible vendor designation or proof of completion of server training on the licensed premises to facilitate the verification of such designation by the commission, agent of the commission, or law enforcement officer. An on premises licensee determined by the commission to have violated this subsection is subject to revocation, suspension, or other sanction as provided for in section 903. A violation of this subsection is not a violation of section 909.

(11) As a condition of the designation of a licensee as a responsible vendor, the licensee shall make available to the administrator in not less than 60-day time increments records sufficient to verify the names and social security numbers of his or her employees. The administrator shall provide to the commission a list of names and social security numbers of individuals who have successfully completed the server training program and shall monitor the licensee in a manner approved by the commission in order to verify continued compliance of the licensee's status as a responsible vendor. The administrator shall notify the commission in writing as soon as it determines that the licensee has failed to maintain the standards for server training or has failed to cooperate with the administrator's verification procedure. Upon receipt of such a notice from the administrator, the commission shall suspend the licensee's designation as a responsible vendor.

(12) The commission may suspend the designation of a retail licensee as a responsible vendor upon a conviction or administrative determination of a prohibited sale on the licensee's licensed premises. The retail licensee losing such a designation may reapply for designation as a responsible vendor upon the passage of 12 months from the date of the conviction or administrative determination of a prohibited sale if the licensee is not convicted or administratively determined to have engaged in a prohibited sale on the licensed premises. After the first instance of a retail licensee losing its designation as a responsible vendor, that retail licensee is not eligible to reapply for such a designation until an additional 3 months for each subsequent conviction or determination. The 3-month time periods are to be in addition to the 12-month period described in this subsection.

(13) A responsible vendor is not considered to be in violation of the prohibition contained in section 707(4) regarding allowing an intoxicated person to frequent or loiter on the licensed premises unless the facts demonstrate otherwise.

History: Add. 1998, Act 391, Imd. Eff. Dec. 1, 1998;—Am. 2000, Act 431, Imd. Eff. Jan. 9, 2001;—Am. 2008, Act 11, Imd. Eff. Feb. 29, 2008;—Am. 2008, Act 218, Imd. Eff. July 16, 2008.