

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)

Act 58 of 1998

CHAPTER 6

436.1601 Importation, sale, transportation, and delivery of beer, wine, mixed spirit drink, and mixed wine drink for sale by wholesaler; requirements; commission authority to inspect and seize or destroy.

Sec. 601. (1) Pursuant to section 2 of Amendment XXI of the Constitution of the United States, this state has an interest in ensuring the safety of beer, wine, mixed spirit drink, and mixed wine drink that is intended to be sold or is sold by wholesalers to retailers for purposes of human consumption. In order to protect the public health and safety, the commission must be able to inspect and seize beer, wine, mixed spirit drink, and mixed wine drink that is in the possession of a wholesaler being offered for sale in this state. The purpose of the inspection described in this subsection is to ensure that the beer, wine, mixed spirit drink, or mixed wine drink meets all of the following conditions:

(a) The beer, wine, mixed spirit drink, or mixed wine drink has been registered for sale with the commission.

(b) The beer, wine, mixed spirit drink, or mixed wine drink is not subject to a government mandated or supplier initiated recall.

(c) The beer, wine, mixed spirit drink, or mixed wine drink is not counterfeit.

(d) The beer, wine, mixed spirit drink, or mixed wine drink is labeled in conformance with applicable laws, rules, and regulations.

(e) The beer, wine, mixed spirit drink, or mixed wine drink can be tested by the commission or an agent assigned by the commission.

(f) The beer, wine, mixed spirit drink, or mixed wine drink is not prohibited by this state.

(2) The commission may seize or destroy beer, wine, mixed spirit drink, and mixed wine drink that does not meet the conditions of subsection (1).

(3) To enable the commission to carry out the functions described in subsections (1) and (2) and to randomly inspect records required to be maintained by a wholesaler under section 217 and R 436.1641 of the Michigan Administrative Code, a wholesaler or an applicant for a wholesaler license must have a warehouse located in this state and licensed by the commission for the storage, sale, and distribution of beer, wine, mixed spirit drink, and mixed wine drink before operating as a wholesaler in this state. This subsection does not require a wholesaler to hold a warehouse license for the wholesaler's licensed premises.

(4) To ensure that all beer, wine, mixed spirit drink, and mixed wine drink sold in this state is subject to this section, the importation, sale, transportation, and delivery of all beer, wine, mixed spirit drink, and mixed wine drink offered for sale by a wholesaler must meet the requirements of section 204.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2019, Act 125, Imd. Eff. Nov. 21, 2019.

436.1602 Termination, cancellation, nonrenewal, or discontinuation of agreement; voidance.

Sec. 602. A manufacturer's termination, cancellation, nonrenewal, or discontinuation of an agreement with a wholesaler as allowed under sections 305(13) and 403(13), as applicable, is void if the manufacturer sells the brand or brands of beer or wine, as applicable, subject to the termination, cancellation, nonrenewal, or discontinuation to a wholesaler or retailer within this state before the expiration of 24 months after the effective date of the written notice provided to a wholesaler as required under section 305(13) or 403(13), as applicable.

History: Add. 2020, Act 116, Imd. Eff. July 1, 2020.

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,

warehouser, or wholesaler or a stockholder of a supplier, warehouser, 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, warehouser, 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, warehouser, 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 warehouser, 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".

436.1605 Acquisition, development, sale, lease, financing, maintenance, operation, or promotion of real property occupied or to be occupied by another vendor; conditions; denial or approval of arrangement or contract; review; denial, revocation, or suspension of license; wholesaler as party to arrangement or contract prohibited; acquisition, development, sale, lease, financing, maintenance, operation, or promotion of condominium project or unit; exception.

Sec. 605. (1) A brewer, wine maker, distiller, brandy manufacturer, or the parent company, a subsidiary or an affiliate of a brewer, wine maker, distiller, or brandy manufacturer which parent company, subsidiary, or affiliate is located in this state may acquire, develop, sell, lease, finance, maintain, operate, or promote real property occupied or to be occupied by another vendor, except a wholesaler, if all of the following exist:

(a) The brewer, wine maker, distiller, or brandy manufacturer has received written approval of the commission before entering into any arrangement or contract between the parties regarding the real property.

(b) The legislative body of the city, village, or township where the property is located certifies to the commission that the real property is in an urban, commercial, or community redevelopment area.

(c) Any arrangement or contract entered into between the brewer, wine maker, distiller, brandy manufacturer, its parent company, subsidiary, or affiliate and another vendor shall not directly or indirectly influence or control the brand of alcoholic liquor sold or to be sold by the vendor and shall only be concerned with real property.

(d) The brewer, wine maker, distiller, brandy manufacturer, its parent company, subsidiary, or affiliate has not acquired, developed, sold, leased, financed, or maintained, operated, or promoted more than 7 real properties that are occupied or to be occupied by another vendor, except a wholesaler.

(2) The commission may deny or approve an arrangement or contract to be entered into under this section. In denying or approving an arrangement or contract, the commission shall consider all of the following:

(a) That the arrangement or contract to be entered into is concerned only with real property.

(b) That the certification required under subsection (1)(b) has been received by the commission.

(c) That the arrangement or contract does not violate this act or the rules promulgated under this act.

(3) The commission may review any arrangement or contract under this section at the time that 1 of the parties to the arrangement or contract applies for or renews a license. The commission may deny, revoke, or suspend the license of a party to the arrangement or contract if the commission finds that the party to the arrangement or contract has violated this act or the rules promulgated under this act.

(4) Except as otherwise provided in subsection (5), a wholesaler shall not be a party to, directly or indirectly, an arrangement or contract under this section.

(5) A manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may acquire, develop, sell, lease, finance, maintain, operate, or promote a condominium project or own a condominium unit as its sole property, under the condominium act, 1978 PA 59, MCL 559.101 to 559.276, if that condominium unit is not the licensed premises owned separately by a retailer and if all of the following

apply:

(a) Condominium assessments in the condominium project are based on the proportional area each condominium unit has to the total area.

(b) A condominium unit operating as a licensed premises operates under a separate name from the condominium project except that cooperative advertising shall be permitted among owners of condominium units for the purpose of promoting the condominium project if the name of a brand or brands of an alcoholic liquor is not mentioned in the advertising.

(c) Ownership of a condominium unit and participation in a condominium association under this section is not considered a financial interest, interest by ownership, or interest by interlocking directors on stock ownership prohibited by section 603.

(d) A retailer separately owning a separate condominium unit as sole property does not directly purchase alcoholic liquor from the manufacturer, warehouser, wholesaler, outstate seller of mixed spirit drink, or vendor of spirits who owns, leases, maintains, finances, or operates the condominium project.

(e) A wholesaler that has a direct or indirect interest in a condominium unit in which a retailer is located does not sell alcoholic liquor to any licensed retail business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest; and, a retail licensed business in which that retailer, or any person having an ownership interest in that retailer, has an ownership interest does not purchase alcoholic liquor from a wholesaler that has a direct or indirect interest in a condominium or condominium unit in which that retailer is located.

(f) A retailer acquiring a separate condominium unit as sole property pays the fair market value for the unit.

(6) Subsection (5) does not apply to a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, authorized distribution agent, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits with a direct or indirect interest in a license under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226. Subsection (5) does not prohibit a direct physical connection between a condominium unit that is the licensed premises and a condominium unit that is not the licensed premises.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2014, Act 45, Imd. Eff. Mar. 25, 2014.

436.1607 Eligibility for license as specially designated merchant or specially designated distributor; prohibitions; small distiller; wine maker and small wine maker; brewer as specially designated merchant; brewery hospitality room; sales or deliveries by wholesaler.

Sec. 607. (1) Except as provided in section 536(7)(h), a warehouser, mixed spirit drink manufacturer, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not be licensed as a specially designated merchant or a specially designated distributor. A person licensed as a small distiller is not considered to be a specially designated distributor. Beginning December 23, 2007 and in addition to the persons described in this subsection, a wine maker and a small wine maker shall also not be licensed as a specially designated merchant or a specially designated distributor. Any wine maker or small wine maker holding a specially designated merchant or specially designated distributor license on December 23, 2007 may continue to hold a specially designated merchant or specially designated distributor license.

(2) A specially designated distributor or specially designated merchant or any other retailer shall not hold a mixed spirit drink manufacturer, wholesale, warehouse, outstate seller of beer, outstate seller of mixed spirit drink, or outstate seller of wine license. Beginning December 23, 2007, a specially designated distributor or specially designated merchant shall not hold a wine maker or small wine maker license in addition to being prohibited from holding any other license described in this subsection. Any specially designated distributor or specially designated merchant holding a wine maker or small wine maker license on December 23, 2007 may continue to hold a wine maker or small wine maker license.

(3) A brewer, warehouser, or wholesaler shall not be licensed as a specially designated merchant. This subsection does not affect the operation of a brewery hospitality room.

(4) A wholesaler may sell or deliver beer and alcoholic liquor to hospitals, military establishments, governments of federal Indian reservations, and churches requiring sacramental wines and may sell to the wholesaler's own employees to a limit of 2 cases of 24 12-ounce units or its equivalent of malt beverage per week, or 1 case of 12 1-liter units or its equivalent of wine or mixed spirit drink per week.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2005, Act 269, Imd. Eff. Dec. 16, 2005;—Am. 2008, Act 218, Imd. Eff. July 16, 2008;—Am. 2018, Act 417, Imd. Eff. Dec. 19, 2018.

436.1608 Distribution and sale of alcoholic beverages; prohibited conduct by manufacturers; violation; civil fine; financial records.

Sec. 608. (1) The purpose of this section is to exercise this state's authority under section 2 of Amendment XXI of the Constitution of the United States to ensure an orderly market for the distribution and sale of alcoholic beverages.

(2) It is the intent of this state to provide access to this state's alcoholic beverage market to all licensed manufacturers of alcoholic beverages by ensuring the independence of wholesalers to distribute the brands of beer, wine, mixed spirit drinks, and mixed wine drinks of multiple manufacturers free from the interference or control of any 1 manufacturer.

(3) A manufacturer shall not do any of the following:

(a) Subject to subsection (5), require a wholesaler to provide financial records directly or indirectly related to any of the following:

(i) The wholesaler's distribution of the brands manufactured or sold to the wholesaler by another manufacturer.

(ii) The compensation of a wholesaler's employees.

(iii) The wholesaler's business operations not directly related to the distribution of the brands manufactured or sold to the wholesaler by the manufacturer.

(b) Request a wholesaler to submit any of the wholesaler's financial records as a requirement for renewing or retaining an agreement.

(c) Require a wholesaler to spend a set amount of resources marketing or promoting the brands manufactured or sold by the manufacturer to the wholesaler that is based on the sales revenue derived by the wholesaler's distribution of the brands manufactured or sold to the wholesaler by the manufacturer.

(d) Intentionally ship beer, wine, mixed spirit drink, or mixed wine drink to a wholesaler that exceeds the order placed by the wholesaler or the forecast submitted by the wholesaler. For purposes of this subdivision, a manufacturer is considered to have intentionally taken an action described in this subdivision if the manufacturer has invoiced or initiated an electronic funds transfer for the amount shipped in excess.

(e) Prohibit a wholesaler from distributing the brands the manufacturer manufactured or sold to the wholesaler in licensed vehicles that have markings or logos of brands manufactured or sold to the wholesaler by other manufacturers.

(f) Prohibit a wholesaler from distributing the brands manufactured or sold to the wholesaler by another manufacturer on a licensed vehicle that has the marking or logos of brands manufactured or sold to the wholesaler by the manufacturer.

(g) Require a distributor to pay for the development, installation, or use of reporting software owned or mandated by the manufacturer. This subdivision does not prohibit a manufacturer from requiring a distributor to maintain electronic information systems that are compatible with systems and standards adopted by the manufacturer.

(h) Require a wholesaler to pay a fee or penalty, of any description, for noncompliance with a manufacturer requirement. This subdivision does not prohibit a wholesaler from paying damages to a supplier as provided in section 305 or 403.

(i) Set or attempt to set the rates of compensation for wholesaler employees, including incentives.

(j) Prohibit a wholesaler from utilizing any wholesaler-owned, leased, or controlled property or equipment to market, promote, deliver, or distribute the brands manufactured or sold by another manufacturer to the wholesaler.

(4) A manufacturer that violates this section may be ordered to pay a civil fine as follows:

(a) For a first violation, a civil fine of not more than \$1,000.00.

(b) For a second violation, a civil fine of not more than \$2,000.00.

(c) For a third or subsequent violation, a civil fine of not more than \$5,000.00.

(5) A manufacturer may request and a wholesaler may provide financial records if any of the following circumstances apply:

(a) The wholesaler is attempting to purchase the manufacturer's brands from another wholesaler.

(b) The wholesaler and manufacturer are entering into an initial distribution agreement.

(c) The financial records are solely related to the brands sold by the manufacturer to the wholesaler.

(6) As used in this section, "manufacturer" includes a brewer, micro brewer, wine maker, small wine maker, mixed spirit drink manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink.

History: Add. 2019, Act 127, Imd. Eff. Nov. 21, 2019.

436.1609 Aiding or assisting other vendor prohibited; exception; refunding amount of price reductions; providing licensee with advertising items; providing licensee with goods and services; approval by commission; sale of brand logoed items; possession and use of brand logoed barware; conditions for promotion of brand under R 436.1321(1) to (3); unauthorized providing or selling of barware; fine; on-premises brand promotional event; removal of merchandise; purchase and sale of brand logoed inventory by retailer holding off-premises license; adding or removing item by rule; definitions.

Sec. 609. (1) Except as provided in this section and sections 605 and 1029, a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not aid or assist any other vendor by gift, loan of money or property of any description, or other valuable thing, or by the giving of premiums or rebates, and a vendor shall not accept the same. However, if manufacturers of spirits reduce the price of their products, the manufacturer of spirits may refund the amount of the price reductions to specially designated distributor licensees in a manner prescribed by the commission.

(2) A manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may, in a manner consistent with rules, regulations, and orders made by the commission, provide another licensee with an advertising item that promotes the brands and prices of alcoholic liquor produced by the manufacturer; sold by the outstate seller of beer, the outstate seller of wine, or the outstate seller of mixed spirit drink; or distributed by the wholesaler. Except as otherwise allowed under subsection (3), (4), (5), or (6), the advertising item must not have any use or value beyond the actual advertising of brands and prices of the alcoholic liquor.

(3) Except for those orders that were approved for specific sponsorships or festivals, a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may provide goods and services to another licensee that were approved by the commission under rules or orders adopted before January 1, 2014 and the following items:

- (a) Alcoholic liquor recipes literature.
- (b) Calendars and matchbooks.
- (c) Removable tap markers or signs.
- (d) Table tents.
- (e) Shelf talkers.
- (f) Bottle neckers.
- (g) Cooler stickers.
- (h) Buttons, blinking and nonblinking.
- (i) Menu clip-ons.
- (j) Mirrors.
- (k) Napkin holders.
- (l) Spirits cold shot tap machines.
- (m) Alcoholic liquor drink menus.
- (n) Keg couplers that are lent to an on-premises retailer.
- (o) Sporting event or entertainment tickets.
- (p) Suction cups.
- (q) Cooler door attachments.
- (r) Tear pad holders.

(4) A wholesaler may sell brand logoed items to an off-premises licensee if those brand logoed items are contained within the packaging of an alcoholic liquor product that is to be sold to a consumer.

(5) A retailer shall not use or possess, at its licensed premises, advertising items that have a use or value beyond the actual advertising of brands and prices of alcoholic liquor except for those items allowed in subsection (3), (4), or (6), or as otherwise allowed under this subsection. A retailer may possess and use brand logoed barware that advertises spirits if the items are purchased from a manufacturer of spirits, vendor of spirits, salesperson, broker, or barware retailer. A retailer may possess and use brand logoed barware that advertises beer or wine if the items are purchased from a barware retailer. A retailer shall maintain the receipts of all purchased brand logoed barware for at least 3 years and shall make those receipts available for inspection by the commission as provided in section 217. Beginning in the 2015 licensing year, a retailer shall disclose, in a manner as prescribed by the commission on the application for renewal of an existing license, if any barware was purchased by the retailer during the immediately preceding license year.

(6) A manufacturer, outstate seller, or vendor of spirits may provide brand logoed merchandise to an on-premises retailer and off-premises retailer to promote the brand and price of its products under R 436.1321(1) to (3) of the Michigan Administrative Code. All of the following apply to brand logoed merchandise under this subsection:

- (a) Brand logoed merchandise must be used for display purposes only.
- (b) Brand logoed merchandise may only provide brand advertising when used in a display.
- (c) Brand logoed merchandise must be returned to the alcoholic beverage supplier or wholesaler on completion of the display.
- (d) Brand logoed merchandise must not be given to the retailer or the retailer's employee or any other person for their personal use.
- (e) The value of the brand logoed merchandise on display must not exceed \$200.00 per item.
- (f) Brand logoed merchandise that a retailer could use in the daily operation of the retailer's business is prohibited.
- (g) Brand logoed merchandise must be unilluminated.
- (h) Brand logoed merchandise must not be more than 3,500 square inches in dimension.
- (i) Brand logoed merchandise must be owned by the manufacturer or supplier. The ownership of brand logoed merchandise may not be transferred to the retailer, the retailer's employee, or any other person.
- (j) A wholesaler may deliver and install a display using brand logoed merchandise provided without charge by a manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed drink.

(7) In addition to the penalties provided under section 903, a manufacturer of beer or wine, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink that provides or sells barware and is not authorized to provide or sell barware is subject to a fine in an amount of up to \$2,500.00 as determined by the commission. Multiple violations resulting from the same incident may be treated as a single violation for purposes of issuance of any penalty imposed under this act.

(8) An on-premises retailer that hosts an on-premises brand promotional event conducted by a wholesaler or supplier has 14 days after the event to remove from the premises any brand logoed merchandise from the event to maintain compliance with this section.

(9) This act and rules promulgated under this act do not prevent a retailer that holds an off-premises license only from purchasing brand logoed inventory and selling that inventory to its customers.

(10) Beginning after September 25, 2015, the commission may, by rule, add an item to or remove an item from the definition of barware. The commission shall not add or remove more than 1 item per rule and shall not promulgate more than 1 rule at a time on the definition of barware. The commission shall not issue a rule that adds refrigerator systems, draft systems, or furniture to the definition of barware. A rule, regulation, or order adopted after January 1, 2014 that is not adopted in accordance with this subsection and that is not consistent with this section or is in conflict with this section is void and unenforceable.

(11) As used in this section:

(a) "Barware" means the following brand logoed items:

- (i) Trays.
- (ii) Coasters.
- (iii) Napkins.
- (iv) Shirts.
- (v) Hats.
- (vi) Pitchers.
- (vii) Drinkware that is intended to be reused.
- (viii) Bar mats.
- (ix) Buckets.
- (x) Bottle openers.
- (xi) Stir rods.
- (xii) Patio umbrellas.

(xiii) Any packaging used to hold and deliver the alcoholic liquor purchased by the retailer.

(xiv) Any other items that have been added by the commission under subsection (10).

(b) "Barware retailer" means a person that offers brand logoed barware for sale to retailers, whether or not it is in their ordinary course of business, and that is not licensed as, or directly or indirectly affiliated with, a manufacturer of beer or wine, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink. For purposes of this subdivision, a licensing agreement that authorizes use of a brand logo is not a direct or indirect affiliation.

(c) "Broker" means a person, other than an individual, that is licensed by the commission and that is

employed or otherwise retained by a manufacturer of spirits or a vendor of spirits to sell, promote, or otherwise assist in the sale or promotion of spirits.

(d) "Indirectly affiliated" means, for purposes of this section only, that a person owns 5% or more of the voting interest of another person.

(e) "Other valuable thing" means a good, service, or intangible good that is given, loaned, leased, or sold to another licensee that has value regardless of whether the value is nominal. Other valuable thing includes, but is not limited to, a good, service, or intangible good that provided a benefit, regardless of how nominal, to the licensee other than advertising the brands and prices of alcoholic liquor produced by the manufacturer; sold by the outstate seller of beer, the outstate seller of wine, or the outstate seller of mixed spirit drink; or distributed by the wholesaler, except for consumable goods and those goods, services, or intangible goods approved by rule or order of the commission before January 1, 2014.

(f) "Salesperson" means, for purposes of this subsection only, a person who is employed by a vendor of spirits or a broker and who is licensed by the commission to sell, deliver, or promote, or otherwise assist in the sale of, spirits in this state.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998;—Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010;—Am. 2014, Act 47, Imd. Eff. Mar. 25, 2014;—Am. 2014, Act 353, Imd. Eff. Oct. 17, 2014;—Am. 2016, Act 81, Imd. Eff. Apr. 12, 2016;—Am. 2021, Act 18, Eff. Aug. 23, 2021.

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.

436.1609b Expenditure records for each call on retail licensee; drink purchase for promotional purposes; limitation.

Sec. 609b. (1) A vendor representative and salesperson of a vendor of spirits, manufacturer of beer, manufacturer of wine, outstate seller of beer, outstate seller of wine, or wholesaler shall maintain accurate records of expenditures for each call on a retail licensee. The records must be maintained for 4 years and must be made available for commission inspection.

(2) A vendor representative or salesperson of spirits or wine, for promotional purposes, may purchase 1 drink for each customer of an on-premises licensee. A drink purchased under this subsection must be of the brand represented by the vendor representative or salesperson.

(3) A vendor representative or salesperson of a manufacturer of beer, a wholesaler of beer, or an outstate seller of beer, for promotional purposes, may purchase 1 drink for each customer of an on-premises retail licensee subject to a total spending limit of \$100.00 per day. A drink purchased under this subsection must be of the brand represented by the vendor representative or salesperson.

(4) A vendor representative or salesperson of a manufacturer of beer, a wholesaler of beer, or an outstate seller of beer shall not purchase a drink under subsection (3) more than twice per month at the same on-premises retail licensed location.

(5) A licensee employed to deliver alcoholic liquor shall not purchase a drink of alcoholic liquor for a retail licensee while on duty or in the course of employment.

History: Add. 2016, Act 81, Imd. Eff. Apr. 12, 2016.

436.1609c Beer, wine, or mixed spirit drink; refund or replacement; reasons.

Sec. 609c. (1) A manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may refund to a retailer the amount the retailer paid for beer, wine, or mixed spirit drink, as applicable, or a manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may replace that beer, wine, or mixed spirit drink for any of the following reasons:

(a) The beer, wine, or mixed spirit drink is outdated.

(b) The beer, wine, or mixed spirit drink is defective.

(c) An error in the beer, wine, or mixed spirit drink delivered.

(d) The beer, wine, or mixed spirit drink may no longer be lawfully sold.

(e) The termination of the retailer's business.

(f) The formula, proof, label, or container of the beer, wine, or mixed spirit drink is changed.

(g) The beer, wine, or mixed spirit drink is discontinued.

(h) The retailer is only open a portion of the year and the beer, wine, or mixed spirit drink is likely to spoil during the off-season.

(2) If beer is within 30 days of its out-of-date code, a manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may refund to a retailer the amount the retailer paid for the beer.

(3) A manufacturer that sells direct to a retailer as provided under section 203a or a wholesaler may only

issue a refund or replacement under this section for beer, wine, or mixed spirit drink that the manufacturer or wholesaler sold to the retailer.

(4) Beginning March 1, 2020, a manufacturer may refund to a wholesaler up to the amount the wholesaler paid for beer, wine, or mixed spirit drink, as applicable, or a manufacturer may replace that beer, wine, or mixed spirit drink for either of the following reasons:

(a) The wholesaler purchased the beer, wine, or mixed spirit drink from the manufacturer and the wholesaler refunded to the retailer the amount the retailer paid for that beer, wine, or mixed spirit drink or replaced that beer, wine, or mixed spirit drink under subsection (1) or (2).

(b) The beer, wine, or mixed spirit drink that the wholesaler purchased from the manufacturer has gone out of date while in possession of the wholesaler.

History: Add. 2017, Act 130, Eff. Jan. 15, 2018;—Am. 2020, Act 108, Imd. Eff. July 1, 2020;—Am. 2020, Act 126, Imd. Eff. July 1, 2020;—Am. 2022, Act 225, Imd. Eff. Oct. 14, 2022.

436.1609d Specially designated distributor; refund to special licensee for unopened bottles.

Sec. 609d. A specially designated distributor that sells spirits to a special licensee that is authorized by the commission to sell spirits may refund the special licensee for the return of an unopened bottle in the same amount that the special licensee paid for the spirits, less any of the specially designated distributor's credit card transaction fees incurred from the sale, if the bottle is without damage to the exterior that would prevent the salability of the bottle.

History: Add. 2020, Act 26, Imd. Eff. Feb. 4, 2020.

436.1609e Providing of brand logoed tent or trailer or temporary platform to special licensee.

Sec. 609e. Notwithstanding section 609, a vendor of spirits may provide a special licensee with any of the following:

(a) A brand logoed tent for use by the special licensee during the effective period of the special license.

(b) A brand logoed temporary platform for use by the special licensee during the effective period of the special license. As used in this subdivision, "temporary platform" means a preestablished platform that is exclusively used to serve, dispense, or mix drinks upon, including any refrigeration equipment or mixing equipment.

(c) A brand logoed trailer for use by the special licensee during the effective period of the special license.

History: Add. 2020, Act 25, Imd. Eff. Feb. 4, 2020.

436.1609f Provision of technology to assist in sales, marketing, delivery, merchandising, or training; requirements.

Sec. 609f. (1) Notwithstanding section 609, a manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink may provide a wholesaler with technology to assist in sales, marketing, delivery, merchandising, or training.

(2) A manufacturer, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink that provides technology to a wholesaler under subsection (1) shall do both of the following:

(a) Comply with this act, including, but not limited to, section 608, and the rules promulgated under this act.

(b) Obtain approval by written order of the commission authorizing the technology before it is provided to a wholesaler.

History: Add. 2022, Act 227, Imd. Eff. Oct. 14, 2022.

436.1609g Sale of nonalcoholic products to retailer; applicability of act.

Sec. 609g. (1) If a wholesaler sells nonalcoholic products to a retailer, this act does not apply to the sale, marketing, merchandising, or distribution of the nonalcoholic products except the following:

(a) The wholesaler shall comply with section 609.

(b) The wholesaler shall not do either of the following:

(i) Provide free nonalcoholic products to a retailer.

(ii) Provide credit to a retailer.

(2) If a wholesaler separately owns or has a direct or indirect financial interest in a company that sells nonalcoholic products, this act does not apply to the company that sells nonalcoholic products if all of the following conditions are met:

(a) The company that sells nonalcoholic products is not a wholesaler.

(b) The company that sells nonalcoholic products and the wholesaler have separate sales and delivery employees.

- (c) The company that sells nonalcoholic products and the wholesaler use separate delivery vehicles.
- (d) The company that sells nonalcoholic products and the wholesaler keep separate finances.
- (e) The company that sells nonalcoholic products does not engage in an activity on behalf of the wholesaler that would violate section 609.

(3) If a wholesaler separately owns or has a direct or indirect financial interest in a company that sells nonalcoholic products, the wholesaler and the company that sells nonalcoholic products may do all of the following:

- (a) Share human resources departments.
- (b) Have a joint payroll.
- (c) Lease warehouse space to each other.
- (d) Have joint vehicle maintenance.
- (e) Jointly recycle beverage containers.
- (f) Share warehouse employees and equipment.

History: Add. 2022, Act 225, Imd. Eff. Oct. 14, 2022.

436.1609h Electronic rebate coupons.

Sec. 609h. A manufacturer or supplier may offer electronic rebate coupons directly to a retail customer after the retail customer purchases alcoholic liquor from a retailer. An electronic rebate coupon issued under this section must comply with all the following:

- (a) A manufacturer or supplier shall only issue coupons that state a specific expiration date and specific cash refund value on the coupons. The refund may be paid by cash, by check, by debit card, through electronic funds transfer to a bank account, or through an internet or mobile payment account.
- (b) A manufacturer or supplier shall not issue coupons that make any alcoholic liquor free.
- (c) A manufacturer or supplier may issue coupons that can be applied to more than 1 specific product sold by that manufacturer or supplier but must state the manufacturer or supplier to which they apply.
- (d) A manufacturer or supplier shall issue coupons that require the retail customer to purchase at least 1 product of alcoholic liquor to redeem a coupon. A manufacturer or supplier may issue coupons that require the retail customer to purchase 2 or more alcoholic liquor products from the same manufacturer or supplier to redeem the coupon.
- (e) A manufacturer or supplier may issue coupons that require the purchase of a product other than alcoholic liquor.
- (f) A wholesaler shall not pay for or participate in the offering of coupons except for providing signs that promote the electronic rebate coupon in accordance with section 610a.
- (g) A manufacturer shall only issue coupons that may be redeemable after a purchase of alcoholic liquor at all retail locations where that alcoholic liquor is sold.

History: Add. 2022, Act 225, Imd. Eff. Oct. 14, 2022;—Am. 2023, Act 183, Imd. Eff. Nov. 7, 2023.

436.1609i Commercially reasonable effort requirements to meet demands.

Sec. 609i. If demands exceed supply for a beer, wine, mixed wine drink, or mixed spirit drink product, a manufacturer, supplier, or wholesaler must do both of the following:

- (a) Engage in commercially reasonable efforts to make the beer, wine, mixed wine drink, or mixed spirit drink product available to purchase by a wholesaler that places an order.
- (b) Engage in commercially reasonable efforts to make the beer, wine, mixed wine drink, or mixed spirit drink product available to purchase by a retailer that places the order.

History: Add. 2022, Act 225, Imd. Eff. Oct. 14, 2022.

436.1609j Recall or removal of beer, wine, or mixed spirit drink products; notification requirements; destruction and reimbursement.

Sec. 609j. (1) If a manufacturer recalls a beer, wine, or mixed spirit drink product or determines that it is necessary for a wholesaler to remove a beer, wine, or mixed spirit drink product from a sales territory, the manufacturer shall notify the commission and the affected wholesaler within 2 business days after the recall or determination.

(2) If a manufacturer recalls a beer, wine, or mixed spirit drink product or determines that it is necessary for a wholesaler to remove a beer, wine, or mixed spirit drink product from a sales territory, the manufacturer shall, within 7 business days after the recall or determination, notify the commission of all of the following:

- (a) The products recalled or determined to be removed and the number of cases of each product.
- (b) The reason why each product was recalled or determined to be removed.
- (c) The location where the affected product was manufactured.

(d) The areas of this state that are affected by the recall or determined removal.

(3) If a manufacturer recalls a beer, wine, or mixed spirit drink product or determines that it is necessary for a wholesaler to remove a beer, wine, or mixed spirit drink product from a sales territory, the affected wholesaler shall, within 7 business days after the recall or determination, notify the commission when the removal and destruction of the affected product began and the expected completion date.

(4) The wholesaler shall notify the commission on the completion and destruction of an affected product described in subsection (3).

(5) If the affected wholesaler removes and destroys an affected product under subsection (3), the manufacturer shall reimburse the wholesaler for all costs reasonably associated with removal and destruction of the affected product within 30 days after the affected product is removed and destroyed.

History: Add. 2022, Act 225, Imd. Eff. Oct. 14, 2022.

436.1610 Advertising; use of unpaid social media; supplier's assistance; requirements; definitions.

Sec. 610. (1) Notwithstanding section 609, a wholesaler, manufacturer, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, vendor of spirits, broker, or retailer may use unpaid social media to advertise any of the following in accordance with all applicable laws and regulations:

(a) An on-premises brand promotion.

(b) Beer, wine, or spirits tastings under section 537.

(c) A product location communication.

(2) Notwithstanding section 609, and subject to subsection (3), a supplier may take any of the following actions to assist a consumer seeking to have an alcoholic beverage sold by the supplier delivered or shipped to the consumer's home or designated location by a retailer as allowed under section 203:

(a) Advertise the name and location of all retailers that deliver or ship to a consumer the alcoholic beverages sold by the supplier.

(b) Provide a link to the website of each retailer that delivers or ships to a consumer the alcoholic beverages sold by the supplier.

(c) Transmit the consumer's order and payment information to the retailer that the consumer chooses to fulfill the customer's purchase and perform the delivery or shipment.

(3) A supplier shall not take any action described in subsection (2) unless both of the following conditions are met:

(a) The supplier and retailer do not provide or receive any other valuable thing in consideration for any action described in subsection (2) taken by the supplier. As used in this subdivision, "other valuable thing" means that term as defined in section 609.

(b) The supplier provides the consumer a list of retailers, from which the consumer selects, that will sell, deliver, or ship the alcoholic beverage to the consumer. The supplier may satisfy the condition under this subdivision by providing the consumer with a list of retailers located in the zip code or nearest zip codes to the consumer's location.

(4) As used in this section:

(a) "Broker" means that term as defined in section 609.

(b) "Consumer" means that term as defined in section 203.

(c) "On-premises brand promotion" means a promotion in the manner provided by the order of the commission issued on October 27, 1999. That order's prohibition against advertising an on-premises promotion by a party off the licensed premises does not apply to this section.

(d) "Product location communication" means a listing or program that allows an individual to determine the availability of a specific product at licensed retailers in a certain geographic area.

(e) "Social media" means a service, platform, or website where users communicate with one another and share media, such as pictures, videos, music, and blogs, with other users free of charge. Social media includes the website of a wholesaler, manufacturer, outstate seller of beer, outstate seller of wine, vendor of spirits, broker, or retailer.

(f) "Supplier" means that term as defined in section 603.

History: Add. 2016, Act 106, Eff. Aug. 1, 2016;—Am. 2021, Act 19, Eff. Aug. 23, 2021.

436.1610a Promotion of brands and prices of alcoholic liquor; signs; requirements.

Sec. 610a. (1) Subject to subsection (2), a manufacturer, mixed spirit drink manufacturer, warehouser, wholesaler, outstate seller of beer, outstate seller of mixed spirit drink, or vendor of spirits may provide to a retailer signs that promote the brands and prices of alcoholic liquor, including special event pricing.

(2) All of the following apply to a sign allowed under subsection (1):

- (a) The sign must not be illuminated.
 - (b) The sign must not have any use beyond the actual advertising of brands, prices, and events related to the alcoholic liquor.
 - (c) The sign must not include the name of the retailer.
 - (d) For a sign that is located inside the retailer's licensed premises, the sign must not be more than 3,500 square inches in dimension.
- (3) A retailer may use an illuminated sign to promote the brand but not the price of alcoholic liquor. A manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits shall not provide to a retailer a sign described in this subsection.
- (4) The signs allowed under this section are in addition to the advertising items that a manufacturer, mixed spirit drink manufacturer, warehouse, wholesaler, outstate seller of beer, outstate seller of wine, outstate seller of mixed spirit drink, or vendor of spirits may provide another licensee under section 609(2).

History: Add. 2017, Act 131, Eff. Jan. 15, 2018.

436.1610b Temporary bin display.

Sec. 610b. (1) A manufacturer, vendor of spirits, outstate seller of beer, outstate seller of wine, or wholesaler shall not sell or in any manner furnish or install, and a retailer shall not accept, a permanent display in the licensed premises of the retailer.

(2) A manufacturer, vendor of spirits, outstate seller of beer, or outstate seller of wine may furnish and install a temporary bin display that has a capacity of up to 25 cases of 24 12-ounce or 0.375-liter containers or the equivalent in other sizes of beer, wine, or spirits on the premises of a retailer that is licensed for off-premises sales only.

(3) Notwithstanding section 609, a wholesaler may install, on the premises of a retailer that is licensed for off-premises sales only, a temporary bin display that has been provided without charge by the manufacturer, outstate seller of beer, or outstate seller of wine.

(4) A retailer shall ensure that a temporary bin display installed on the retailer's premises clearly indicates by a tag, stamp, label, or other method that is securely affixed to the temporary bin display the date on which the temporary bin display was installed.

(5) The 3,500-square-inch limit on an inside retail advertising sign under section 609 does not apply to advertising on a temporary bin display described in subsection (2) or (3).

(6) As used in this section, "temporary bin display" means a freestanding device that is constructed of a material that is used for the exhibition of beer, wine, or spirits on the premises of a retailer that is licensed for off-premises sales only and that must be removed from the retail licensed premises not later than 120 days after installation.

History: Add. 2017, Act 83, Eff. Oct. 10, 2017.

436.1610c Certain equipment to special licensee; beer festival; limitations.

Sec. 610c. (1) Notwithstanding section 609, a manufacturer, wholesaler, or retailer may provide a special licensee, including, but not limited to, the holder of a special license to conduct a beer festival under section 526, with any of the following:

(a) Beer or wine dispensing equipment or cooling equipment for use by the special licensee during the effective period of the special license. The equipment described in this subdivision may be within or part of a trailer.

(b) A brand logoed tent for use by the special licensee during the effective period of the special license.

(2) A manufacturer, wholesaler, or retailer that is authorized to sell alcoholic liquor to a special licensee under this act may deliver the alcoholic liquor to the special licensee's premises on the commission's issuance of the special license.

(3) A special licensee shall not sell alcoholic liquor before the effective period of the special license.

(4) A special licensee may purchase alcoholic liquor under R 436.582 of the Michigan Administrative Code or under section 526.

History: Add. 2018, Act 180, Imd. Eff. June 11, 2018.

436.1610d Cooperative advertising; exceptions; instant rebate coupons; limitations; "cooperative advertising" defined.

Sec. 610d. (1) There must not be cooperative advertising:

- (a) Between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a retailer.
- (b) Between a wholesaler and a retailer.

- (c) Between a manufacturer, an outstate seller of beer, an outstate seller of wine, and a wholesaler.
- (2) A manufacturer, an outstate seller of beer, or an outstate seller of wine may do any of the following:
 - (a) Pay any portion of the cost of painting a truck of a wholesaler.
 - (b) Supply a brand logoed decal or advertising mat, or both, to a wholesaler without cost.
 - (c) Use the name or logo of the wholesaler of the outstate seller of beer or outstate seller of wine in the advertising of the outstate seller of beer or outstate seller of wine.
- (3) The name of a retailer must not appear in the advertising of a manufacturer, an outstate seller of beer, an outstate seller of wine, or a wholesaler.
- (4) A retailer may offer consumers instant rebate coupons for use with alcoholic liquor purchases. An instant rebate coupon issued under this subsection must comply with all of the following:
 - (a) A retailer shall only issue coupons that state a specific expiration date and specific cash refund value on the coupons.
 - (b) A retailer shall not issue coupons that make any alcoholic liquor free. For spirits, the retailer shall only issue coupons where the specific cash refund amount does not exceed 35% of this state's minimum shelf price for the products purchased and does not reduce the retail price of any product below \$2.00 a bottle.
 - (c) A retailer may issue coupons that can be applied to more than 1 specific product from a manufacturer, but must state the manufacturer to which they apply.
 - (d) A retailer shall issue coupons that require the retail customer to purchase at least 1 product of alcoholic liquor to redeem a coupon. A retailer may issue coupons that require the retail customer to purchase 2 or more alcoholic liquor products from the same manufacturer to redeem the coupon.
 - (e) For spirits, a retailer shall only issue coupons for the 375 milliliters or larger size bottles.
 - (f) A supplier or wholesaler of beer or wine shall not pay for or participate in the offering of an instant rebate coupon.
- (5) As used in this section, "cooperative advertising" means a jointly funded effort between licensees or between vendors of spirits.

History: Add. 2018, Act 426, Imd. Eff. Dec. 20, 2018.

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.