

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)

Act 58 of 1998

Chapter 9

436.1901 Compliance required; prohibited acts; violation; sanctions and penalties.

Sec. 901.

(1) A person, directly or indirectly, himself or herself or by his or her clerk, agent, or employee, shall not manufacture, manufacture for sale, sell, offer or keep for sale, barter, furnish, import, import for sale, transport for hire, transport, or possess any alcoholic liquor unless the person complies with this act.

(2) A licensee shall not allow unlawful gambling on the licensed premises and shall not allow on the licensed premises any gaming devices prohibited by law.

(3) A licensee shall not sell, offer or keep for sale, furnish, possess, or allow a customer to consume alcoholic liquor that is not authorized by the license issued to the licensee by the commission.

(4) A person, whether or not a licensee, shall not sell, deliver, or import spirits unless the sale, delivery, or importation is made by the commission, the commission's authorized agent or distributor, an authorized distribution agent certified by order of the commission, a person licensed by the commission, or by prior written order of the commission. A person who violates this subsection is subject to the sanctions and penalties contained in section 909(4) and, in the case of a violation of section 909(4)(a), is subject to forfeiture of proceeds or an instrumentality as provided for in chapter XXVA of the Michigan penal code, 1931 PA 328, MCL 750.159f to 750.159x.

(5) A licensee shall not sell or furnish alcoholic liquor to a person who maintains, operates, or leases premises that are not licensed by the commission and upon which other persons unlawfully engage in the sale or consumption of alcoholic liquor for consideration as prohibited by section 913.

(6) A retail licensee shall not, on his or her licensed premises, sell, offer for sale, accept, furnish, possess, or allow the consumption of alcoholic liquor that has not been purchased by the retail licensee from the commission, the commission's authorized agent or distributor, an authorized distribution agent certified by order of the commission, or a licensee of the commission authorized to sell that alcoholic liquor to a retail licensee. This subsection does not apply to the consumption of alcoholic liquor in the bedrooms or suites of registered guests of licensed hotels or in the bedrooms or suites of bona fide members of licensed clubs.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2008, Act 11, Imd. Eff. Feb. 29, 2008 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010

436.1903 Suspension or revocation of license; violation of act or rules; penalty; disposition; administrative fine; hearing; procedure; fee; right of appeal; institution of criminal prosecutions; defense; rules; appointment of agents to hear violation cases; authority and responsibility; ineligibility of designated agent for appointment to commission.

Sec. 903.

(1) The commission or any commissioner or duly authorized agent of the commission designated by the chairperson of the commission, on notice and proper hearing, may suspend or revoke any license on a violation of this act or any of the rules promulgated by the commission under this act. The commission or any commissioner or authorized agent of the commission designated by the chairperson of the commission, may assess a penalty of not more than \$300.00 for each violation of this act or rules promulgated under this act, or not more than \$1,000.00 for each violation of section 801(1), in addition to or instead of revocation or suspension of the license, which penalty must be paid to the commission and deposited with the state treasurer and must be credited to the general fund of the state. The commission shall hold a hearing and order the suspension or revocation of a license if the licensee has been found liable for 3 or more separate violations of section 801(1) which violations occurred on different occasions within a 24-month period unless the violations for the sale, furnishing, or giving alcoholic liquor to a minor were discovered by the licensee and disclosed to an appropriate law enforcement agency immediately on discovery. A retail licensee who sells, offers to sell, accepts, furnishes, possesses, or allows the consumption of spirits in violation of section 901(6) is subject to an administrative fine of not more than \$2,500.00 per occurrence and the following license sanctions after notice and opportunity for an administrative hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328:

- (a) For a first violation, a license revocation or suspension for between 1 and 30 days.
- (b) For a second violation, a license revocation or suspension for between 31 and 90 days.
- (c) For a third or subsequent violation, revocation of the license.

(2) The commission shall provide a procedure by which a licensee who is aggrieved by any penalty imposed under subsection (1) and any suspension or revocation of a license ordered by the commission, a commissioner, or a duly authorized agent of the commission may request a hearing for the purpose of presenting any facts or reasons to the commission as to why the penalty, suspension, or revocation should be modified or rescinded. The request must be in writing and accompanied by a fee of \$25.00. The commission, after reviewing the record made before a commissioner or an authorized agent of the commission, may allow or refuse to allow the hearing in accordance with the commission's rules. The right to a hearing provided in this subsection, however, must not be interpreted by a court as curtailing, removing, or annulling the right of the commission to suspend or revoke licenses as provided for in this act. A licensee does not have a right of appeal from the final determination of the commission, except by leave of the circuit court. Notice of the order of suspension or revocation of a license or of the assessment of a penalty, or both, must be given in the manner prescribed by the commission. The suspension or revocation of a license or the assessment of a penalty, or both, by the commission or an authorized agent of the commission does not prohibit the institution of a criminal prosecution for a violation of this act. The institution of a criminal prosecution for a violation of this act or the acquittal or conviction of a person for a violation of this act does not prevent the suspension or revocation of a license or the assessment of a penalty, or both, by the commission. In a hearing for the suspension or revocation of a license issued under this act, proof that the defendant licensee or an agent or employee of the licensee demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator or chauffeur license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of majority and identity of the person, may be offered as evidence in a defense to a proceeding for the suspension or revocation of a license issued under this act. A licensee who has reason to believe that a minor has used fraudulent identification to purchase alcoholic liquor in violation of section 703 shall file a police report concerning the violation with a local law enforcement agency and shall also present the alleged fraudulent identification to the local law enforcement agency at the time of filing the report if the identification is in the possession of the licensee. The commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the use by licensees of equipment designed to detect altered or forged driver licenses, state identification cards, and other forms of identification.

(3) In addition to the hearing commissioners provided for in section 209, the chairperson of the commission may designate not more than 2 authorized agents to hear violation cases. A person appointed under this subsection must be a member in good standing of the State Bar of Michigan.

(4) An authorized agent who has been designated by the chairperson under subsection (3) has, in the hearing of violation cases, the same authority and responsibility as does a hearing commissioner under this act and the rules promulgated under this act.

(5) An authorized agent who has been designated by the chairperson under subsection (3) is ineligible for appointment to the commission for a period of 1 year after the person ceases to serve as an authorized agent.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998 ;-- Am. 2000, Act 431, Imd. Eff. Jan. 9, 2001 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010 ;-- Am. 2019, Act 131, Imd. Eff. Nov. 21, 2019

436.1903a Conviction or administrative disqualification of licensee; electronic transaction; sanctions; hearing and appeal procedures; definitions.

Sec. 903a.

(1) A licensee is subject to the licensing sanctions in subsection (2) if the licensee is convicted or administratively disqualified as the result of an electronic transaction to which all of the following apply:

- (a) The transaction is a transaction for food assistance program benefits.
- (b) The transaction involves an item other than eligible food.
- (c) The transaction is related to the sale of alcoholic liquor under that licensee's liquor license.

(2) The commission or a commissioner or duly authorized agent of the commission designated by the chairperson of the commission shall, upon due notice and proper hearing, impose the following license sanctions upon a licensee described in subsection (1):

- (a) For a first violation, a license suspension for between 30 and 60 days.

- (b) For a second violation, a license suspension for between 61 and 120 days.
- (c) For a third or subsequent violation, revocation of the license.
- (3) A licensee aggrieved by a sanction imposed under subsection (2) may invoke the hearing and appeal procedures of section 903(2) and rules promulgated under that section.
- (4) As used in this section:
 - (a) "Administratively disqualified" means administratively disqualified from acting as a merchant under the food and nutrition act of 2008, 7 USC 2011 to 2036a, or 7 CFR 278.6 because the licensee has engaged in trafficking as that term is defined in 7 CFR 271.2. A licensee is not administratively disqualified until any administrative or judicial review under 7 CFR 279 is complete.
 - (b) "Convicted" means that the licensee either was convicted of or pled guilty to a crime under section 300a(1) of the Michigan penal code, 1931 PA 328, MCL 750.300a.
 - (c) "Eligible food" means that term as defined in 7 CFR 271.2.

History: Add. 2013, Act 55, Eff. Sept. 10, 2013

436.1903b Payment by means dishonored by financial institution for lack of sufficient funds; violation of act.

Sec. 903b.

A retailer violates this act if the retailer or the retailer's clerk, servant, agent, or employee makes a payment to a wholesaler, the commission, or this state by any means that has been dishonored by a financial institution for lack of sufficient funds.

History: Add. 2016, Act 434, Imd. Eff. Jan. 4, 2017

436.1904 Consumption or possession of alcoholic liquor on school property; prohibition; violation as misdemeanor; exceptions; other violations; application of section to minor; definitions.

Sec. 904.

- (1) A person shall not consume alcoholic liquor on school property or possess alcoholic liquor on school property with the intent to consume it on school property.
- (2) A person who violates this section is guilty of a misdemeanor punishable as follows:
 - (a) If the person has no prior convictions, by imprisonment for not more than 93 days or a fine of not more than \$250.00, or both.
 - (b) If the person has 1 prior conviction, by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.
 - (c) If the person has 2 or more prior convictions, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.
- (3) This section does not prohibit a person from consuming alcoholic liquor on school property or possessing alcoholic liquor on school property with the intent to consume it on school property under any of the following circumstances:
 - (a) As part of a generally recognized religious service or religious ceremony.
 - (b) At a nonschool function or event on school property if the superintendent of the school district or, if the school is not operated by a school district, the administrator of the school, or his or her designee, has approved consuming alcoholic liquor on school property or possessing alcoholic liquor on school property with the intent to consume it on school property during that function or event.
- (4) This section does not prohibit an individual from being convicted of or found responsible for any other violation of law arising out of the same transaction as the violation of this section.
- (5) This section does not apply to a minor who could be subject to prosecution under section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.
- (6) As used in this section:

(a) "Prior conviction" means a conviction for violating this section or a local ordinance substantially corresponding to this section.

(b) "School" means a public school offering developmental kindergarten, kindergarten, or any grade from 1 through 12.

(c) "School property" means a building, playing field, vehicle, or other property used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

History: Add. 1999, Act 274, Eff. Apr. 3, 2000

Popular Name: Act 306

436.1905 Selling or furnishing alcoholic liquor to minor; enforcement actions prohibited; conditions; exception.

Sec. 905.

(1) Notwithstanding section 903, if a retail licensee or a retail licensee's clerk, agent, or employee violates this act by selling or furnishing alcoholic liquor to a minor, or by allowing a minor to consume alcoholic liquor or possess alcoholic liquor for personal consumption on the licensed premises, and if the enforcing agency involved in the prosecution of the violation is the state police or a local police agency, the commission shall not take any action under section 903 to suspend or revoke the licensee's license or assess an administrative fine against the licensee unless all of the following occur, if applicable:

(a) Enforcement action is taken against the minor who purchased, consumed, or received the alcoholic liquor from the retail licensee or the retail licensee's clerk, agent, or employee.

(b) Enforcement action is taken under section 701 against the person 21 years of age or older that is not the retail licensee or the retail licensee's clerk, agent, or employee but who sold or furnished the alcoholic liquor to the minor.

(c) Enforcement action is taken under section 701 against the retail licensee's clerk, agent, or employee.

(2) Subsection (1) does not apply if the enforcing agent involved in the prosecution is a commission inspector rather than a police agency.

(3) Subsection (1)(a) does not apply if the prosecution of the violation is the result of an undercover operation in which the minor who purchased, consumed, or received the alcoholic liquor acted under the direction of the state police or a local police agency as part of the enforcement action and such enforcement action is otherwise in compliance with section 701(4), (5), and (6).

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2002, Act 725, Imd. Eff. Dec. 30, 2002

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

436.1907 Revocation of license; forfeiture of privileges; seizure of alcoholic liquor.

Sec. 907.

(1) Upon revocation of a license issued under this act, any and all privileges conferred by that license shall be forfeited and the commission shall seize any and all alcoholic liquor found in the possession of the licensee.

(2) The commission shall remit to that licensee the purchase price less 10%, paid by the licensee to the commission for all alcoholic liquor seized. All other alcoholic liquor seized shall be disposed of by order of the commission and no payment shall be made for that alcoholic liquor.

(3) A person whose license has been revoked for cause or whose license has been ordered transferred to another person for cause is not eligible for issuance or reissuance of a license under this act for a period of at least 2 years.

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

436.1909 Violation of act as misdemeanor or felony; penalties or sanctions; remedies; violation of MCL 436.1203; "person" defined; legislative intent.

Sec. 909.

(1) Except as otherwise provided in this act, a person, other than a person required to be licensed under this act, who violates this act is guilty of a misdemeanor.

(2) Except as otherwise provided in this act, a licensee who violates this act, or a rule or regulation promulgated under this act, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00, or both.

(3) A person who performs an act for which a license is required under this act without first obtaining that license or who sells alcoholic liquor in a county that has prohibited the sale of alcoholic liquor under section 1107 is guilty of a felony punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000.00, or both.

(4) A person, whether or not a licensee, who violates section 901(4) is subject to the following penalties or sanctions:

(a) A person who sells, delivers, or imports spirits in violation of section 901(4) in the amount of at least 80,000

milliliters is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(b) A person who sells, delivers, or imports spirits in violation of section 901(4) in the amount of at least 8,000 milliliters but less than 80,000 milliliters is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$2,500.00, or both.

(c) A person who sells, delivers, or imports spirits in violation of section 901(4) in the amount of less than 8,000 milliliters is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$1,000.00.

(5) Subject to subsection (6), a person, whether or not a licensee, who sells, delivers, or imports beer or wine in violation of section 203(1) is subject to the following penalties or sanctions:

(a) A person who sells, delivers, or imports beer or wine in violation of section 203(1) in the amount of at least 225,000 milliliters is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(b) A person who sells, delivers, or imports beer or wine in violation of section 203(1) in the amount of at least 45,000 milliliters but less than 225,000 milliliters is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$2,500.00, or both.

(c) A person who sells, delivers, or imports beer or wine in violation of section 203(1) in the amount of less than 45,000 milliliters is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(6) As used in subsection (5), "person" does not include any of the following:

(a) An air carrier as that term is defined in 49 USC 40102.

(b) A freight forwarder as that term is defined in 49 USC 13102.

(c) A motor carrier as that term is defined in 49 USC 13102.

(7) The remedies under this act are cumulative and independent. The use of 1 remedy by a person does not bar the use of other lawful remedies by the person or the use of a lawful remedy by another person.

(8) It is the intent of the legislature that the court, in imposing punishment under this section, should discriminate between casual or slight violations and habitual sales of alcoholic liquor or attempts to commercialize violations of this act or the rules or regulations promulgated under this act.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010 ;-- Am. 2017, Act 87, Eff. Oct. 10, 2017

436.1911 Failure to pay tax; penalties; collection.

Sec. 911.

(1) If a person fails or refuses to pay the tax required by this act, the commission shall assess the tax against that person and the tax shall become due and payable together with a penalty or penalties that the commission considers appropriate, but not to exceed \$5,000.00, upon demand by the commission or a person designated by the commission. If the tax remains unpaid for 15 days after that demand is made, the commission may issue its warrant under its official seal, directed to the sheriff of any county or other officer, to levy upon and sell the taxpayer's property, either personal or real, used in connection with the business for the privilege of doing which the tax is levied, found within his or her jurisdiction, for the payment of the amount of the tax with the added penalties, interest, and cost of executing the warrant. A warrant issued under this section shall be returned to the commission, together with the money collected by virtue of the warrant, within the time specified in the warrant, which time shall be not less than 20 or more than 90 days from the date of the warrant. The sheriff or other officer to whom the warrant is directed shall proceed upon the warrant in all respects, with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record, and shall be entitled to the same fees for his service in executing the warrant, to be collected in the same manner. The state of Michigan, through the commission or an officer or agent designated by it, is authorized to bid for and purchase any property sold under this section.

(2) In addition to the mode of collection provided in subsection (1), the commission may bring an action at law in the county in which the business or any part of the business is carried on, to collect and recover the amount of taxes, interest, or penalties, or any combination of taxes, interest, or penalties, due from a taxpayer.

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

436.1913 Prohibited conduct; unlicensed premises or place; unlawful consumption of alcoholic liquor; exceptions; construction of section; "consideration" defined.

Sec. 913.

(1) A person shall not do either of the following:

(a) Maintain, operate, or lease, or otherwise furnish to any person, any premises or place that is not licensed under this act within which the other person may engage in the drinking of alcoholic liquor for consideration.

(b) Obtain by way of lease or rental agreement, and furnish or provide to any other person, any premises or place that is not licensed under this act within which any other person may engage in the drinking of alcoholic liquor for consideration.

(2) A person shall not consume alcoholic liquor in a commercial establishment selling food if the commercial establishment is not licensed under this act. A person owning, operating, or leasing a commercial establishment selling food which is not licensed under this act shall not allow the consumption of alcoholic liquor on its premises.

(3) This section shall not apply to any hotel or any licensee under this act.

(4) This section shall not be construed to repeal or amend section 1019.

(5) As used in this section, "consideration" includes any fee, cover charge, ticket purchase, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks, or the purchasing of any service or item, or combination of service and item; or includes the furnishing of glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2006, Act 131, Imd. Eff. May 5, 2006

436.1914 Alcohol vapor device; use, possession, sale, or offer to sell prohibited; violation; rules.

Sec. 914.

(1) Except as otherwise provided in subsection (3), a person shall not use or offer for use, possess, sell, or offer for sale an alcohol vapor device.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable in the manner provided for in section 909.

(3) The commission may jointly promulgate rules with the department of community health to allow for the sale or use of an alcohol vapor device for research purposes.

History: Add. 2005, Act 320, Imd. Eff. Dec. 27, 2005

436.1914a Powdered alcohol; use, possession, sale, or offer for sale prohibited; violation as misdemeanor; exception; "powdered alcohol" defined.

Sec. 914a.

(1) Except as otherwise provided in subsection (2), a person shall not use or offer for use, possess, sell, or offer for sale powdered alcohol. A person that violates this section is guilty of a misdemeanor punishable as provided in section 909.

(2) This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

(3) As used in this section, "powdered alcohol" means alcohol that is sold in powder form for either direct use or reconstitution.

History: Add. 2015, Act 165, Eff. Jan. 26, 2016

436.1914b Marihuana-infused beer, wine, mixed wine drink, mixed spirit drink, or spirits; use, possession, sale, or offer for sale prohibited; exception; definitions.

Sec. 914b.

(1) Except as otherwise provided in subsection (2), a person shall not use or offer for use, possess, sell, or offer for sale marihuana-infused beer, wine, mixed wine drink, mixed spirit drink, or spirits. A person that violates this section is guilty of a misdemeanor punishable as provided in section 909.

(2) This section does not apply to a hospital that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or a pharmaceutical company or biotechnology company conducting bona fide research.

(3) As used in this section:

(a) "Marihuana" means that term as defined in section 3 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27953.

(b) "Marihuana-infused beer, wine, mixed wine drink, mixed spirit drink, or spirits" means beer, wine, mixed wine drink, mixed spirit drink, or spirits that contain any amount of marihuana.

History: Add. 2018, Act 346, Imd. Eff. Oct. 16, 2018 ;-- Am. 2021, Act 63, Eff. Oct. 11, 2021

436.1915 Possessing or consuming alcoholic liquor on public highway or in park, place of amusement, or publicly owned area; authority of local governmental unit or state department or agency to prohibit possession or consumption of alcoholic liquor; definitions.

Sec. 915.

(1) Alcoholic liquor shall not be consumed on the public highways.

(2) Except as provided in subsections (3) and (4), alcoholic liquor may be possessed or consumed in public parks, public places of amusement, or a publicly owned area not licensed to sell for consumption on the premises.

(3) The governing body of a local governmental unit may prohibit by ordinance, order, or resolution the possession or consumption of alcoholic liquor in any public park, public place of amusement, or publicly owned area that is owned or administered, or both, by that local governmental unit. When land is leased from a department or agency of this state, an ordinance, order, or resolution adopted pursuant to this subsection shall be subject to the approval of the department or agency.

(4) A department or agency of this state that administers public lands may prohibit by rule, order, or resolution the possession or consumption of alcoholic liquor on the public land under its jurisdiction.

(5) As used in this section:

(a) "Local governmental unit" means a county, city, township, village, or charter authority.

(b) "Publicly owned area" means an area under the jurisdiction of a local governmental unit.

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

436.1916 Entertainment, dance, or topless activity permits; issuance; prohibited activity; exceptions; extended hours permit; permits issued under administrative rule; fees; definitions.

Sec. 916.

(1) An on-premises licensee shall not allow monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises unless the licensee has applied for and been granted an entertainment permit by the commission. Issuance of an entertainment permit under this subsection does not allow topless activity on the licensed premises.

(2) An on-premises licensee shall not allow dancing by customers on the licensed premises unless the licensee has applied for and been granted a dance permit by the commission. Issuance of a dance permit under this subsection does not allow topless activity on the licensed premises.

(3) An on-premises licensee shall not allow topless activity on the licensed premises unless the licensee has applied for and been granted a topless activity permit by the commission. This section is not intended to prevent a local unit of government from enacting an ordinance prohibiting topless activity or nudity on a licensed premises located within that local unit of government. This subsection applies only to topless activity permits issued by the commission to on-premises licensees located in counties with a population of 95,000 or less.

(4) The commission may issue to an on-premises licensee a combination dance-entertainment permit or topless activity-entertainment permit after application requesting a permit for both types of activities.

(5) An on-premises licensee shall not allow the activities allowed by a permit issued under this section at any time other than the legal hours for sale and consumption of alcoholic liquor.

(6) An extended hours permit is required for an on-premises licensee to engage in any of the following activities on the licensed premises at any time other than the legal hours for the sale and consumption of alcoholic liquor:

(a) Monologues, dialogues, motion pictures, still slides, closed circuit television, contests, other performances for public viewing on the licensed premises, if holding a permit for those activities.

(b) Patron dancing, if holding a permit for that activity.

(c) The performance or playing of an orchestra, piano, or other types of musical instruments or singing or the viewing of any publicly broadcast television transmission from a federally licensed station.

(7) The commission may issue an extended hours permit to either of the following:

(a) A licensee not holding an entertainment, dance, or combination dance-entertainment permit, who desires to conduct activities described under subsection (11).

(b) A licensee who already holds, or submits an application for, an entertainment, dance, or combination dance-entertainment permit in order to conduct activities allowed by the permit.

(8) The applicant for only an extended hours permit shall obtain the local approval for the extended hours permit under subsection (10). An applicant for an extended hours permit who holds an entertainment, dance, or combination dance-entertainment permit shall obtain the local approval for the entertainment, dance, or combination dance-entertainment permit under subsection (10) as well as local approval for the extended hours permit under subsection (10). The commission shall waive the conditions contained in R 436.1437(1) of the Michigan administrative code relative to the application for an extended hours permit.

(9) An on-premises licensee issued an extended hours permit shall not allow customers on the licensed premises during the time period provided by the extended hours permit unless the activity, and only that activity, allowed by the extended hours permit is occurring. The issuance of an extended hours permit does not authorize any of the following:

(a) Topless activity.

(b) Except as otherwise provided under this subdivision, gaming as that term is defined in section 2 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.202. A licensee holding a casino license issued under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, may conduct gaming pursuant to the casino license only.

(c) Keno or other gaming authorized under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(d) The extension of hours for the serving of alcoholic liquor.

(e) The extension of hours for the consumption of alcoholic liquor as provided for in R 436.1403 of the Michigan administrative code.

(10) Before the issuance of any permit under this section, the on-premises licensee shall obtain the approval of all of the following:

(a) The commission.

(b) Except in cities with a population of 1,000,000 or more, the local legislative body of the jurisdiction within which the premises are located.

(c) The chief law enforcement officer of the jurisdiction within which the premises are located or the entity contractually designated to enforce the law in that jurisdiction.

(11) The following activities are allowed without the granting of a permit under this section:

(a) The performance or playing of an orchestra, piano, or other types of musical instruments, or singing.

(b) Any publicly broadcast television transmission from a federally licensed station.

(12) In the case of a licensee granted an entertainment or dance permit under R 436.1407 of the Michigan administrative code who, after January 1, 1998, extended the activities conducted under that permit to regular or full-time topless activity, that licensee shall apply to the commission for a topless activity permit under this section

within 60 days after April 14, 1998 in order to continue topless activity. Except as otherwise provided for in this subsection, this section applies only to entertainment or dance permits issued after April 14, 1998.

(13) The fees imposed by the commission for a permit under this section remain the same as the fees imposed under a permit issued under R 436.1407 of the Michigan administrative code.

(14) Except as otherwise provided, this section does not change the renewal or application process for a license under section 501 or the renewal process for permits issued under R 436.1407 of the Michigan administrative code.

(15) As used in this section:

(a) "Nudity" means exposure to public view of the whole or part of the pubic region; the whole or part of the anus; the whole or part of the buttocks; the whole or part of the genitals; or the breast area including the nipple or more than 1/2 of the area of the breast.

(b) "Topless activity" means activity that includes, but is not limited to, entertainment or work-related activity performed by any of the following persons on the licensed premises in which the female breast area, including the nipple, or more than 1/2 of the area of the breast, is directly exposed or exposed by means of see-through clothing or a body stocking:

(i) A licensee.

(ii) An employee, agent, or contractor of the licensee.

(iii) A person acting under the control of or with the permission of the licensee.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2005, Act 259, Imd. Eff. Dec. 16, 2005

436.1917 Liability of vendor.

Sec. 917.

(1) A person who engages in the business of selling or keeping for sale alcoholic liquor in violation of this act, whether as owner, clerk, agent, servant, or employee, is equally liable, as principal, both civilly and criminally, for the violation of this act.

(2) A person or principal is liable, both civilly and criminally, for the acts of his or her clerk, servant, agent, or employee, in violating this act.

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

436.1919 Forging documents, labels, or stamps; prohibited conduct; penalty.

Sec. 919.

A person who falsely or fraudulently makes, simulates, forges, alters, or counterfeits a document, label, or stamp prescribed by the commission under this act or rules promulgated under this act, or who causes or procures to be falsely or fraudulently made, simulated, forged, altered, or counterfeited any such document, label, or stamp, who knowingly and willfully utters, publishes, passes, or tenders as true, any such false, altered, forged, or counterfeited document, label, or stamp, or who uses more than once any label or stamp prescribed by the commission pursuant to this act or the rules promulgated under this act is guilty of a felony punishable by imprisonment for not more than 1 year or by a fine of not more than \$1,000.00, or both.

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

436.1921 Sale or exchange of ceramic commemorative bottles.

Sec. 921.

Notwithstanding section 203, a collector, who is 21 years of age or older, of ceramic commemorative bottles containing alcoholic liquor and bearing an unbroken federal tax stamp or seal may sell or trade the bottles to other such collectors of those bottles without obtaining a license under this act. All sales conducted under this subsection shall be for the purpose of exchanging ceramic commemorative bottles between private collectors of those bottles and shall not be for the purpose of selling alcoholic liquor for personal consumption. A sale or exchange conducted under this subsection shall not occur in any of the following ways:

- (a) In connection with the business of a holder of an alcoholic liquor license.
- (b) In connection with any other business.

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

436.1923 Warehouse receipts for alcoholic liquor; authority of commission.

Sec. 923.

The commission has complete power to regulate, limit, and control the sale, transfer, barter, or exchange in this state of warehouse receipts for alcoholic liquor wherever alcoholic liquor is situated.

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

436.1925 Construction of act; severability.

Sec. 925.

(1) This act shall be construed to effect the intent and purposes set forth in this act and to protect the public health, safety, and welfare of the citizens of this state.

(2) If any provision of this act is found to be unconstitutional by a court of competent jurisdiction and all rights of appeal have expired or been exhausted, the offending provision shall be severed and shall not affect the remaining portions of the act.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 2014, Act 46, Imd. Eff. Mar. 25, 2014