

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

LIQUOR CONTROL COMMISSION

WINES

(By authority conferred on the liquor control commission by section 215(1) of 1998 PA 58, MCL 436.1215(1), and Executive Reorganization Order No. 2011-4, MCL 445.2030)

R 436.1701 Definitions.

Rule 1. The terms defined in R 436.1001 and the act have the same meanings when used in these rules.

History: 1979 AC; 1980 AAC; 2017 AAC.

R 436.1702 Rescinded.

History: 1979 AC; 2017 AAC.

R 436.1703 Rescinded.

History: 1979 AC; 2017 AAC.

R 436.1704 Mixed spirit drink manufacturer.

Rule 4. A mixed spirit drink manufacturer shall be treated as a wine maker under these rules except for manufacturing and labeling regulations pursuant to section 109(6) of the act, MCL 436.1109(6).

History: 2017 AAC.

R 436.1705 Outstate sellers of wine.

Rule 5. (1) A person shall be a holder of the required basic permit issued under the federal alcohol administration act, 27 U.S.C. §201 et seq. before being issued an outstate seller of wine license, wine maker license, or small wine maker license.

(2) The commission may issue an outstate seller of wine license to any of the following entities pursuant to these rules and the act:

(a) A person who is located in the United States, who imports foreign wine, and who sells this foreign wine in this state.

(b) A person who is located outside of this state, but in the United States, and who ships and sells bulk wine to licensed Michigan manufacturers for blending, rectifying,

or nonbeverage purposes or who ships and sells bottled wine directly to a minister, priest, or rabbi for sacramental purposes.

(c) A person who is located outside of this state, but in the United States, and who bottles wine manufactured by another person. This person shall have a certificate or affidavit of identity from the manufacturer. This licensed person shall be responsible for the quality of wine shipped into and sold in this state.

(d) A manufacturer that is located outside of this state, but in the United States, and that produces and bottles its own wine.

(e) A person who is located in the United States and who is designated by the manufacturer of wine as its sole and exclusive sales agent in the United States. A person who is issued an outstate seller of wine license under the provisions of this subdivision shall be responsible for the quality of wine shipped into and sold in this state.

(f) A person who is located in the United States and who purchases wine from a manufacturer of wine or brand owner located outside of this state, but in the United States, if the total amount of wine imported into this state that is manufactured by that outstate manufacturer of wine or brand owner is 150,000 liters or less per calendar year. The outstate seller shall be responsible for the quality of wine shipped into and sold in this state. A person who obtains an outstate seller of wine license pursuant to this subdivision, or who imports wine pursuant to this subdivision, and who holds a wholesale license shall pay cash at the time of purchase for importation.

History: 1979 AC; 1982 AACs; 1990 AACs; 2017 AACs.

R 436.1706 Rescinded.

History: 1979 AACs.

R 436.1707 Federal standards of identity for wine.

Rule 7. The standards of identity for the several classes and types of bottled wine shall be the federal standards of identity, published in title 27, part 4, subpart C, C.F.R., 1935, as amended, as of June 1, 1975, which are incorporated herein by reference. The commission may by written order establish other standards of identity. Copies of the federal regulations are on file and available to the public in the Lansing office of the commission at cost.

History: 1979 AC.

R 436.1708 Manufacturing wine under federal wine regulations.

Rule 8. (1) A manufacturer shall manufacture wine under the federal wine regulations published in 27 C.F.R. part 24, §§24.1 to 24.323 (2014) that are adopted in these rules by reference. Copies of the adopted provisions may be obtained either from the Superintendent of Documents, United States Government Printing Office (GPO), Washington, DC 20402 or from the gpo website at <https://bookstore.gpo.gov/> at a cost of

\$37.00 each as of the time of adoption of these rules, or free of charge from the gpo website at <https://www.gpo.gov/>. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Licensing and Regulatory Affairs, 525 W. Allegan, P.O. Box 30005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules.

(2) Substandard, imitation base, or nonstandard wine may be sold in this state by written order of the commission.

History: 1979 AC; 1998-2000 AACS; 2017 AACS.

R 436.1711 Inspections.

Rule 11. Upon order of the commission any commission representative or employee of the Michigan department of agriculture may inspect any premises of an out-of-state producer, manufacturer or bottler of wine which is sold or to be sold in this state.

History: 1979 AC.

R 436.1712 Rescinded.

History: 1979 AC; 2017 AACS.

R 436.1714 Rescinded.

History: 1979 AC; 1998-2000 AACS.

R 436.1716 Bottling.

Rule 16. (1) Wine may be bottled or sold or both in Michigan in containers of any size permitted by the federal alcohol administration act and approved by written order of the commission.

(2) For tax purposes a variance in content will be permitted within a fraction of a fluid ounce in bottles of champagne, carbonated or sparkling wines in order that a 26 ounce container may be registered as a 1/5 of a gallon or 25.6 ounce container, or a 13 ounce container may be registered at 1/10 of a gallon or 12.8 ounce container.

(3) Imported wine may be delivered into this state and sold in containers of any size permitted by the federal alcohol administration act and approved by written order of the commission.

(4) A Michigan manufacturer shall not bottle bulk domestic or imported wine for sale in any state without a written order of approval from the commission.

(5) A Michigan manufacturer shall not manufacture or bottle wine for any other manufacturer without a written order of approval from the commission.

History: 1979 AC.

R 436.1717 Restraining orders; record.

Rule 17. (1) If wine has not been manufactured in accordance with R 436.1708, then the commission may issue a written order restraining a wine manufacturer from selling, offering for sale, using for blending purposes, or otherwise using the wine, whether it is in the finished state or in the course of manufacture. The order shall remain in force until rescinded or otherwise disposed of by the commission.

(2) A manufacturer shall keep a complete record, on forms prescribed by the commission, of all wines manufactured.

History: 1979 AC; 1980 AAC; 1998-2000 AAC.

R 436.1719 Requirements for sale of bottled wine.

Rule 19. (1) Bottled wine shall not be offered for sale, kept for sale, sold, delivered, or otherwise introduced into this state unless all of the following provisions have been complied with:

(a) The wine is bottled, packaged, marked, branded, and labeled under these rules.

(b) The wine label truthfully describes the contents of the container pursuant to these rules and the federal wine regulations published in 27 C.F.R. part 4, §§4.1 to 4.101 (2014) that are adopted in these rules by reference. Copies of the adopted provisions may be obtained either from the Superintendent of Documents, United States Government Printing Office (GPO), Washington, DC 20402 or from the gpo website at <http://bookstore.gpo.gov/> at a cost of \$37.00 each as of the time of adoption of these rules, or free of charge from the gpo website at <http://www.gpoaccess.gov/cfr/>. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Licensing and Regulatory Affairs, 525 W. Allegan, P.O. Box 30005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules.

(c) The wine has received a registration number of approval from the commission.

(2) Bottled wine shall not be shipped, delivered, or otherwise introduced into this state unless it is accompanied by an invoice, manifest, or other shipping document listing the quantity of bottled wine, by brand name and corresponding registration number of approval that is being shipped, delivered, or introduced into this state. The registration number of approval referenced in this subrule is not required to be on the invoice of a Michigan licensed direct shipper for wine shipped to a consumer in this state 21 years of age or older. This does not relieve the Michigan licensed direct shipper from complying with the requirement to obtain a registration number of approval for any wine product shipped into this state.

(3) A manufacturer, rectifier, or outstate seller of wine who is responsible for labeling shall furnish proof, upon request, that valid certificates of approval for the label have been obtained from, and are unrevoked under, the federal labeling requirements as published in 27 C.F.R. part 4, subpart D, §§4.1 to 4.80, of 1935, as amended. If a certificate of label approval is not required by the United States alcohol and tobacco tax and trade bureau, the manufacturer, rectifier, or outstate seller of wine must submit an electronic copy of the label.

(4) A shipment of bottled wine from a manufacturer or an outstate seller of wine shall be made only to a licensed wholesaler at the address of the licensed premises, except upon written order of the commission.

History: 1979 AC; 1998-2000 AACCS; 2011 AACCS; 2017 AACCS.

R 436.1720 Reports of Michigan licensed wine makers, Michigan licensed outstate sellers of wine, and Michigan licensed wholesalers.

Rule 20. (1) Each sale or delivery of wine made by a Michigan licensed wine maker or Michigan licensed outstate seller of wine to a Michigan licensed wholesaler of wine shall be accurately recorded on a sales invoice, a debit memo, or a credit memo. Each Michigan licensed wine maker and Michigan licensed outstate seller of wine shall furnish each Michigan licensed wholesaler of wine with 2 copies of each invoice at the time of each sale or delivery of wine.

(2) Each sales invoice shall have printed on it the name, address, and location of the Michigan licensed wine maker or Michigan licensed outstate seller of wine issuing the invoice and shall also contain all of the following information:

(a) The name and address of the Michigan licensed wholesaler of wine to whom the sale was made.

(b) The date of sale and an identifying invoice number.

(c) The quantity, brand, container type, container size, unit price, and total cost of the wine sold.

(d) An identifying designation for all wine over 16% alcohol by volume.

(e) The address to which the wine was delivered, if different than the address of the Michigan licensed wholesaler to whom the wine was sold.

(3) When a billing error is discovered, a Michigan licensed wine maker or Michigan licensed outstate seller of wine shall immediately furnish the Michigan licensed wholesaler of wine who was incorrectly billed with 2 copies of either a debit memo or a credit memo to correct the billing error.

(4) Each debit memo and each credit memo shall have printed on it the name and address of the Michigan licensed wine maker or Michigan licensed outstate seller of wine issuing the debit memo or credit memo and shall also contain all of the following information:

(a) The name and address of the Michigan licensed wholesaler of wine.

(b) The date on which the original sale occurred and the identifying number of the invoice being corrected.

(c) The corrected quantity, brand, container type, container size, unit price, the net amount debited or credited, and the number of the invoice to which the debit or credit will be applied, if known.

(d) The reason for the debit or credit.

(5) Each Michigan licensed wholesaler of wine shall retain on the licensed premises 1 copy of each invoice, debit memo, and credit memo received from a Michigan licensed wine maker or Michigan licensed outstate seller of wine and shall forward to the Lansing office of the commission, postmarked not later than the fifteenth day of each month, 1 copy of each invoice, debit memo, or credit memo received during the previous calendar month. As an alternative the Michigan licensed wholesaler

may submit to the Lansing office of the commission a computer generated report that contains all of the same information as the sales invoices, debit memos and credit memos.

(6) Each Michigan licensed wine maker or Michigan licensed outstate seller of wine shall forward to the Lansing office of the commission, postmarked not later than the fifteenth day of each month, 1 copy of each invoice, debit memo, or credit memo for all sales, deliveries, and importations of wine in Michigan during the previous calendar month. As an alternative the Michigan licensed wine maker or Michigan licensed outstate seller of wine may submit to the Lansing office of the commission a computer generated report that contains all of the same information as the sales invoices, debit memos, and credit memos.

History: 1979 AC; 1989 AACS; 2017 AACS.

R 436.1721 Requirements for sale of bulk wine.

Rule 21. (1) A manufacturer or outstate seller of wine may sell bulk wine of any alcoholic content for blending purposes and nonbeverage purposes without an additional license.

(2) Bulk wine shall not be offered for sale, kept for sale, sold, delivered or otherwise introduced into this state unless it is approved for sale by the commission and accompanied by a release form, a supply of which shall be furnished by the commission upon request. The release shall be signed by an outstate seller of wine or an authorized agent of the outstate seller of wine.

(3) When bulk wine is received by a consignee on a release issued by the commission, the consignee shall immediately submit to the commission a copy of the invoice listing the shipment. Upon request the consignee shall readily make available to a commission inspector a copy of the release, the bill of lading, and a copy of the vendor's invoice.

History: 1979 AC.

R 436.1722 Transportation of wine.

Rule 22. (1) When bottled wine is transported in interstate or intrastate commerce, a copy of the invoice or bill of lading shall accompany the wine and shall be available for inspection by commission representatives and law enforcement agencies.

(2) A truck driver of a manufacturer or outstate seller of bottled wine shall have invoices and bills of lading available for inspection by commission representatives and law enforcement agencies.

History: 1979 AC; 1980 AACS.

R 436.1723 Rescinded.

History: 1979 AC; 1985 AACS.

R 436.1723a Barrel deposit and refund.

Rule 23a. (1) A manufacturer, an outstate seller of wine, or a wholesaler of wine shall collect a barrel deposit of \$10.00 for a barrel, 1/2 barrel, and 1/4 barrel of wine or mixed wine drink.

(2) A cash refund of \$10.00 for a barrel, 1/2 barrel, and 1/4 barrel of wine or mixed wine drink shall be made to a licensee who has made the deposit and returned the barrels for refund.

History: 1989 AACCS.

R 436.1724 Sacramental wine.

Rule 24. (1) A manufacturer, outstate seller of wine, or wholesaler may sell wine to a church for use only in sacramental or religious rites.

(2) A manufacturer, outstate seller of wine, or wholesaler who sells wine for sacramental or religious rites shall file a quarterly report with the commission on a form approved by the commission listing the amount of such sales. The report shall be submitted to the commission by January 15, April 15, July 15, and October 15 of each year.

History: 1979 AC.

R 436.1725 Excise tax on wine; reports.

Rule 25. (1) Each Michigan licensed wholesaler and each Michigan licensed wine maker that does not designate a wholesaler to pay the wine tax shall submit, to the commission, on forms acceptable to the commission and postmarked not later than the fifteenth day of each month, a wine tax report of all wine sold in this state during the preceding calendar month. Payment of the required wine excise tax due pursuant to the provisions of section 301 of the act, MCL 436.1301, shall accompany the report.

(2) The wine excise tax report submitted pursuant to subrule (1) of this rule by a Michigan licensed wholesaler or a Michigan licensed wine maker shall include all of the following information:

(a) The total sales of wine made in this state during the period covered by the report.

(b) The total amount of the wine excise tax due.

(c) The date upon which each sale of wine was made.

(d) The name and address of the Michigan licensed retailer that received each shipment of wine.

(e) The invoice number for each sale of wine.

(f) The brand name, quantity, and container size of each item of wine sold.

(3) Each Michigan licensed wine maker that chooses to designate a wholesaler to report and pay its wine taxes shall notify the commission of its selection through electronic mail. Each Michigan licensed wine maker that chooses to designate a

wholesaler shall select a wholesaler or wholesalers sufficient to cover all the areas of this state where the Michigan licensed wine makers products are distributed. The commission and the wholesaler shall receive notification of the designation of a wholesaler to report and pay wine taxes before April 1. The selection of a wholesaler to report and pay the wine taxes may be changed only by the Michigan licensed wine maker by notification to the commission before April 1. The change of designated wholesalers shall be effective on May 1. A Michigan licensed wine maker who does not properly designate a wholesaler and notify the commission of its selection shall be responsible for the submission of the wine tax reports and payment of the wine tax required under subrules (1) and (2) of this rule.

(4) Each Michigan licensed wine maker shall submit, to the commission, on forms acceptable to the commission and postmarked not later than the fifteenth day of each month, a wine tax report of all wine sold or consumed on the licensed premises of its manufacturing facility and tasting rooms. Payment of the required wine excise tax due pursuant to the provisions of section 301 of the act, MCL 436.1301, shall accompany the report.

History: 1979 AC; 1989 AACS; 2017 AACS.

R 436.1726 Price schedule; quantity discounts prohibited.

Rule 26. (1) A manufacturer or wholesaler shall file with the commission in Lansing, before January 1, April 1, July 1, and October 1 of each year, a schedule of the net cash prices to retail licensees for all wine by kind, type, size, and brand.

(2) The prices filed shall not be changed during a quarterly period, unless approved by a written order of the commission. Approval for a price change shall not be granted for periods of less than 14 consecutive calendar days in duration.

(3) A manufacturer or wholesaler shall not charge a retail licensee any fee in addition to the net cash prices filed in subrule (1) except for a split case fee. If a manufacturer or wholesaler charges a split case fee to a retail licensee, such a fee shall be at the same per unit rate, shall be nondiscriminatory, and shall not be based on a sliding scale.

(4) A manufacturer or wholesaler shall not sell wine at a quantity discount.

History: 1979 AC; 1983 AACS.

R 436.1727 Records.

Rule 27. (1) The production and sales records of the manufacturer shall be maintained in order and available for inspection for the 4 most recent years.

(2) A wholesaler of wine shall maintain records of its purchases and sales of alcoholic liquor. The records shall be maintained and available for inspection for the 4 most recent years.

(3) A manufacturer or wholesaler of wine shall maintain complete records of the expenses of their licensed salesmen and representatives and complete records of the total compensation paid to their licensed salesmen and representatives. These records shall be maintained and available for inspection for the 4 most recent years.

History: 1979 AC.

R 436.1728 Inspection; analysis; enforcement.

Rule 28. (1) The books, records and premises of all licensees shall be available to the commission representative at all times. The licensees shall give any assistance and provide the facilities required for the inspection and analysis.

(2) The commission may demand a sample of any wine shipped into this state and offered for sale or sold for analytical and inspection purposes.

(3) The commission reserves the right to confiscate wine or other alcoholic beverage unless the beverage complies with these rules and the act. The wine confiscated shall be subject to disposition by order of the commission.

History: 1979 AC.

R 436.1731 Rescinded.

History: 1979 AC; 1998-2000 AACS.

R 436.1735 Prohibited acts.

Rule 35. (1) A licensee shall not fail, neglect, or refuse to submit a report required by these rules or submit a false or incomplete report required by these rules. A licensee shall not refuse to permit a commission representative to examine the wine books, records, invoices, or other papers kept by the licensee in regard to the licensed business.

(2) A licensee shall not falsely label a container in which wine is placed for sale, use or give a false or fictitious address in an application or form required by these rules, or otherwise make a material misrepresentation in an application, record, or report.

(3) A licensee shall not engage in tied-in sales of beer, wine, or beer and wine.

(4) Bottled wine or wine containers shall not be returned to a wholesaler or manufacturer, except as provided by written order of the commission.

History: 1979 AC; 1985 AACS; 1998-2000 AACS; 2017 AACS.

R 436.1749 Rescissions.

Rule 49. The following rules are rescinded:

(a) Rule 19 of the rules entitled "Retail Licensees Selling Alcoholic Beverages for Consumption on the Premises," being R 436.19 of the Michigan Administrative Code, and appearing on page 5306 of the 1954 volume of the Code.

(b) Rule 15 of the rules entitled "Retail Licensees Selling Beer and Wine for Consumption off the Premises," being R 436.65 of the Michigan Administrative Code, and appearing on page 5310 of the 1954 volume of the Code.

(c) Rules entitled "Manufacture, Importation, Transportation, Standards of Identity and Quality, Labeling, Possession and Sale of Wines," being R 436.251 to R 436.422 of the Michigan Administrative Code, and appearing on pages 5333 to 5370 of the 1954 volume of the Code.

History: 1979 AC.