

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

LIQUOR CONTROL COMMISSION

SPIRITS

(By authority conferred on the liquor control commission by sections 215(1) and 301 of 1998 PA 58, MCL 436.1215(1) and MCL 436.1301, and Executive Reorganization Order No. 2011-4, MCL 445.2030)

R 436.1801 Definitions.

Rule 1. The terms defined in the Michigan liquor control act and the commission rules have the same meaning when used in these rules.

History: 1979 AC.

R 436.1802 Authorized distribution agents generally.

Rule 2. (1) As used in this rule, "authorized distribution agent" means a person who has entered into a contractual relationship with 1 or more manufacturers or suppliers of spirits or with another authorized distribution agent for warehousing or distribution, or both, of spirits and who has been certified, in writing, by the commission, to act as the commission's agent for the warehousing and distribution of spirits to retail licensees of the commission.

(2) A person shall apply for certification as an authorized distribution agent to the commission in Lansing on forms, and in the manner, approved by the commission.

(3) An applicant for certification as an authorized distribution agent shall provide both of the following to the commission:

(a) A technical plan for the importation, transportation, warehousing, and delivery of spirits in this state.

(b) Any information or documentation required by the commission relating to the honesty and integrity of any applicant or any principal in the corporation, company, association, limited liability company, or partnership applying for certification as an authorized distribution agent.

(4) An authorized distribution agent or prospective authorized distribution agent shall maintain, and make available to the commission or its representative upon being given notice, any contract or written agreement or proposed contract or written agreement that the authorized distribution agent or prospective authorized distribution agent may have with a manufacturer, supplier of spirits, or other authorized distribution agent for the importation, warehousing, delivery, or sale of spirits in this state.

(5) An authorized distribution agent shall maintain an adequate physical plant and proper equipment to perform the functions for which the authorized distribution agent is certified.

(6) The commission may inspect, during normal business hours, any facility or equipment used in conjunction with the business of an authorized distribution agent or applicant for certification as an authorized distribution agent.

(7) An authorized distribution agent or prospective authorized distribution agent shall make available, for inspection by the commission and its representatives, all financial and accounting records pertinent to the operation of the authorized distribution agent or prospective authorized distribution agent.

(8) An authorized distribution agent shall maintain, at its expense, insurance approved by the commission to protect against claims resulting from business operations or activities, including insurance on alcoholic beverages in storage or transit.

(9) An authorized distribution agent shall obtain and maintain a blanket bond payable to the state of Michigan in an amount equal to the risk of loss to the state as determined by the commission.

(10) An authorized distribution agent shall not have a direct or indirect interest in a retail alcoholic beverage license issued by the state of Michigan as enumerated in section 537 of Act No. 8 58 of the Public Acts of 1998, as amended, being §436.1537 of the Michigan Compiled Laws.

(11) An authorized distribution agent may not subcontract any of the business functions or activities specified in the agent's contract or agreement with the manufacturer or supplier of spirits without the prior written consent of the commission and certification of the subcontractor as an authorized distribution agent of the commission.

(12) The commission may rescind the certification of an authorized distribution agent who fails to comply with any and all federal, state, or local codes, laws, ordinances, rules, or regulations applicable to the agent's operations or fails to comply with Act No. 8 58 of the Public Acts of 1998, as amended, being §436.1101 et seq. of the Michigan Compiled Laws, commission rules, certification requirements, or commission order, including an order that establishes further business operating procedures for

authorized distribution agents.

(13) Certification of an authorized distribution agent shall terminate automatically and without any act of the commission if the contract or agreement between the authorized distribution agent and the manufacturer or supplier of spirits or another authorized distribution agent expires or is terminated. Certification shall also terminate automatically upon modification of the system of warehousing and distribution of spirits by the legislature or the commission that eliminates the need for the authorized distribution agent certification.

(14) The commission may, by order, establish further business operating procedures for authorized distribution agents relative to the wholesaling and distribution of spirits.

History: 1996 AACS; 1998-2000 AACS.

R 436.1803 Building and health laws and ordinances.

Rule 3. A manufacturer of spirits shall comply with all state and local building and health laws and ordinances.

History: 1979 AC.

R 436.1805 Equipment.

Rule 5. A manufacturer of spirits shall possess the necessary equipment for a satisfactory operation which shall be maintained in good working order and in a sanitary condition. The commission may establish specific equipment requirements by written order.

History: 1979 AC.

R 436.1807 Agricultural product compliance with law.

Rule 7. Agricultural products processed by a manufacturer of spirits shall comply with state laws and rules of the department of agriculture.

History: 1979 AC.

R 436.1809 Sellers of alcohol.

Rule 9. (1) A seller of alcohol license is required for the sale of alcohol in this state.

(2) A seller of alcohol license shall be issued, pursuant to the act and commission rules, to the following:

(a) A person who is the holder of the required basic permit issued under the federal alcohol administration act.

(b) A person who has paid the annual license fee and furnished the surety bond set by written order of the commission.

(3) A seller of alcohol licensee may sell an unlimited quantity of alcohol to the following:

(a) A licensed distiller, rectifier or manufacturer of wine, for fortifying and blending purposes.

(b) A licensed industrial manufacturer for use in manufacturing products for nonbeverage purposes.

(4) A seller of alcohol licensee may sell a limited quantity of alcohol to persons holding a federal tax free alcohol permit, such quantity to be set by written order of the commission.

(5) A shipment into this state from a seller of alcohol licensee shall have a release from the commission.

History: 1979 AC.

R 436.1811 Industrial manufacturers.

Rule 11. (1) An industrial manufacturer license is required to secure alcohol and bulk alcoholic liquors for exclusive use in manufacturing products for nonbeverage purposes.

(2) An industrial manufacturer license shall be issued, pursuant to the act and commission rules, to the following:

(a) A person who is the holder of the required basic permit issued under the federal alcohol administration act.

(b) A person who has paid the annual license fee and furnished the surety bond set by written order of the commission.

(3) An industrial manufacturer licensee shall buy alcohol only from the commission or from a licensee of the commission.

History: 1979 AC.

R 436.1813 Limited alcohol buyers.

Rule 13. (1) A limited alcohol buyer license is required to secure alcohol for medicinal, mechanical, chemical or scientific purposes.

(2) A limited alcohol buyer license shall be issued, pursuant to the act and commission rules, to a person who has paid the annual fee set by written order of the commission.

(3) A limited alcohol buyer licensee shall buy alcohol only from the commission or from a licensee of the commission.

History: 1979 AC.

R 436.1815 Transportation.

Rule 15. Railroads, steamship lines, express companies, and common carriers of other transporting companies are prohibited from accepting or delivering spirits to any person in this state except in accordance with the following:

(a) A copy of a release approved by a representative of the commission shall accompany the bill of lading for shipments of spirits made to a person or licensee in this state.

(b) A release is not required when bottled spirits are shipped with a bill of lading addressed to or in care of the commission.

History: 1979 AC.

R 436.1817 Warehouse receipts.

Rule 17. A person shall not sell, offer for sale or in any manner assign or transfer in this state warehouse receipts for spirits, wherever the spirits are located, except as follows:

(a) An isolated transaction in which a warehouse receipt for spirits is sold, offered for sale or delivered by a bona fide owner or pledgee thereof, such sale or offer for sale or delivery not being made in the course of repeated or successive transactions of a like character by the owner or pledgee, and the owner or pledgee not being a dealer or issuer or salesman of such warehouse receipts.

(b) A sale of warehouse receipts for spirits by a manufacturer.

(c) A sale made to a bank, trust company, insurance company, or broker or dealer in warehouse receipts for spirits.

History: 1979 AC.

R 436.1819 Prohibited acts by licensees.

Rule 19. (1) A licensee shall not fail, neglect or refuse to make a report required by these rules or refuse to permit commission representatives to examine his books, federal tax stamps, records, invoices or other papers pertaining thereto, or any stock of spirits in his possession or custody, or make an incomplete, false or fraudulent report or do anything to avoid a full disclosure of the amount of spirits subject to tax.

(2) A licensee shall not falsely label a container in which spirits are placed for sale, or use or give a false or fictitious name, or use or give a false or fictitious address in an application or form required by these rules, or otherwise commit a fraud in an application, record or report.

History: 1979 AC.

R 436.1821 Damaged goods.

Rule 21. No rebates, refunds or adjustments on broken containers, damaged goods, or for other reasons, shall be made by a licensee to any other licensee except by written order of the commission.

History: 1979 AC.

R 436.1823 Rescissions.

Rule 23. The following rules are rescinded:

(a) The rules entitled "Rules and Regulations Governing Vendors and Agents Engaged in the Promotion of the Sale of Distilled Spirits in the State of Michigan," being R 436.131 to R 436.141 of the Michigan Administrative Code, and appearing on page 5319 of the 1954 volume of the Code.

(b) Rules entitled "Regulations for the Sale and Control of Alcohol, Spirits, Cologne Spirits, Whiskies, Brandies, High Wines, Low Wines for Beverage, Nonbeverage, Industrial, Medicinal, Mechanical, Chemical, Scientific and Tax Free Purposes," being R 436.431 to R 436.439 and R

436.450 of the Michigan Administrative Code, and appearing on pages 5371 to 5375 of the 1954 volume of the Code.

(c) Rule 6 of the rules entitled "Wines," being R 436.1706 of the Michigan Administrative Code and appearing on page 5788 of the 1970-71 Annual Supplements to the Code.

History: 1979 AC.

R 436.1825 Adoption by reference of federal standards of identity for spirits.

Rule 25. The federal standards of identity, published at 27 C.F.R. part 5, subpart C, §§5.21 to 5.23, of 1935, as amended, are adopted by reference in these rules

as the standards of identity for the classes and types of bottled spirits. Copies of the adopted standards 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, Secondary Complex, 7150 Harris Drive, P.O. Box 3005, Lansing, Michigan 48909, at a cost of \$43.00 each as of the time of adoption of these rules. The commission may establish other standards by written order.

History: 1998-2000 AACS; 2011 AACS.

R 436.1827 Adoption by reference of federal distilled spirit regulations.

Rule 27. A manufacturer of spirits shall manufacture spirits under the federal distilled spirit regulations published at 27 C.F.R. part 19, §§19.1 to 19.792, of 1935, as amended, which are adopted in these rules by reference. Copies of the adopted provisions may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, at a cost as of the time of adoption of these rules of \$49.00. Copies of these provisions may also be obtained from the Liquor Control Commission, Department of Consumer and Industry Services, Secondary Complex, 7150 Harris Drive, P.O. Box 30005, Lansing, Michigan 48909, at a cost as of the time of adoption of these rules of \$55.00 each.

History: 1998-2000 AACS.

R 436.1829 Labels and advertising.

Rule 29. The sale of spirits is prohibited in this state unless all of the following provisions are complied with:

(a) The spirit is packaged, marked, branded, and labeled in accordance with these rules.

(b) The spirit label truthfully describes the contents of the container in accordance with these rules and the federal distilled spirit regulations published at 27 C.F.R. part 5, subpart C, of 1935, as amended, which are adopted by reference in R 436.1825.

(c) A vendor of spirits shall furnish proof upon request that a valid certificate of approval for the label has been obtained and is unrevoked under the federal labeling requirements at 27 C.F.R. part 5, subpart C, of 1935, as amended, which are adopted by reference in R 436.1825.

(d) The commission has issued a registration number of approval for the spirits.

History: 1998-2000 AACS; 2011 AACS.