

## FREQUENTLY ASKED QUESTIONS RELATED TO MICHIGAN LIQUOR CONTROL



**How are quotas for liquor licenses determined?**



In cities, incorporated villages, or townships, only 1 specially designated distributor (SDD) license shall be issued by the commission for every 3,000 of population, or fraction thereof. The quota requirement may be waived at the discretion of the commission if there is no specially designated distributor licensee within 2 miles, measured along the nearest traffic route, of the applicant. MCL 436.1533 A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. In-depth information regarding quotas is found in MCL 436.1531 of the Liquor Control Code.



**How much is the fine for a sale to minor violation?**



The fine can be up to \$1,000. The Commissioner or Administrative Law Judge assessing the penalty will also consider how long the license has been issued, past violation history, age of the underage patron and other mitigating circumstances. Your license can also be suspended or revoked and the Commission does practice progressive discipline.

In those cases where a licensee has been found liable for selling alcoholic beverages to an underage or intoxicated person on three separate occasions over a two year period, the Commission is required by law to hold a penalty hearing in addition to the hearings for each violation, and must order either a suspension or the revocation of a license.



**How much are fines for other types of violations?**



Fines for sale to an intoxicated person are up to \$1,000, other violations run up to \$300. Again, consideration is given to the period of licensure, past violation history, the nature and severity of the offense and other mitigating circumstances. There is also the possibility of license suspension or revocation and progressive discipline factors.



**What constitutes a valid identification when I make a sale of alcoholic liquor?**



The law assumes that someone making the sale of alcoholic beverages to a customer will make a "diligent inquiry" as to that person's age. MCL 436.1701, Section 701 (10) (b) of the Michigan Liquor Control Code states "Diligent inquiry means a diligent good faith effort to determine the age of the person, which includes at least an examination of an official Michigan operator's or chauffeur's license, an official Michigan personal identification card, a military identification card, or any other bona fide picture identification which establishes the identity and age of the person." It should be emphasized that the ultimate responsibility rests with the seller. If you are not convinced that the buyer is 21 or over, do not make the sale.



**What do I do if a minor tries to purchase alcohol?**



As above, if you are not convinced that the buyer is 21 or over, do not make the sale. Call the police and give the officer the person's ID. The police may prosecute the person for attempting to buy alcohol when under the legal age.



**Do local law enforcement officers have the right to conduct a search of my establishment?**



MCL 436.1217, Section 217 (2) of the Michigan Liquor Control Code states " A licensee shall make the licensed premises available for inspection and search by a commission investigator or law enforcement officer empowered to enforce the commission's rules and this act during regular business hours or when the licensed premises are occupied by the licensee or a clerk, servant, agent, or employee of the licensee. Evidence of a violation of this act or rules promulgated under this act discovered under this subsection may be seized and used in an administrative or court proceeding."



**What alcohol products must be bagged when they are sold?**



There are no Michigan Laws or Administrative Rules regarding products being bagged. The habit of bagging most likely stems from sellers wanting to contain the glass shards if a bottle was dropped and broken.



**Does an arrest record prevent someone from applying for a liquor license?**



A prior arrest record is not an automatic bar to obtaining a license. When applying for a license an individual should truthfully disclose all prior arrest and conviction information on the application forms. The individual will also be asked to divulge this information to an investigator from the commission. Each application is reviewed on a case by case basis by the commission. The seriousness of the offenses committed, ones that involve the misuse of alcohol and the total record of the applicant are some of the things that the commission will take under consideration when making a determination as to suitability for licensure.



**Will my conviction record result in denial of my application?**



A prior conviction record is not an automatic impediment to obtaining a liquor license. When applying for a license an individual should truthfully disclose all prior arrest and conviction information on the application forms. The individual will also be asked to divulge this information to an investigator from the Commission and may be asked to divulge this information at the local level. Each application is reviewed on a case-by-case basis by the Commission. The seriousness of the offenses committed, ones that involve the misuse of alcohol and violence as well as the total record of the applicant, are some of the specifics the Commission will take into consideration when making a determination as to suitability for licensure. R 436.1105(2)(g)



**If a licensed establishment were to cease business operations, when would the license need to be escrowed and how long may it remain in escrow?**



R436.1047 Rule 47 of the Administrative Rules states "A licensee who ceases active operation of the licensed business for a period of more than 30 days shall return all current licenses and permits to the commission." R436.1107 Rule 7 (2) states "A licensee shall have only 5 years after the expiration of the license to put the license into active operation. If the licensee fails to put the license into active operation within 5 years, then all rights to the license shall terminate unless the commission has received written verification of extenuating circumstances that fall within the outlines of Rule 1107. Escrowed licenses must be renewed each year in the same manner as an active license, including all license fees."



**What are the age requirements for employees who sell and serve alcohol?**



R436.1009, Rule 9 (2) of the Administrative Rules states "A licensee shall not allow any person who is less than 18 years of age to sell or serve alcoholic liquor."



**Must minors be out of my bar/restaurant by 9pm?**



Not necessarily, MCL 750.141, Section 141 of the Michigan Penal code states that a minor child under 17 years of age shall not be permitted to remain in a dance hall, saloon, barroom or any place where spirituous or intoxicating liquor, wine or beer ...is sold unless accompanied by a parent or guardian. The section does not prevent the township, city or village from establishing more stringent regulations. Also, some establishments have made it their own policy to ask minors to leave in the late evening however it is not a rule of the Michigan Liquor Control Commission.



**Are patrons allowed to bring their own alcoholic beverages onto Licensed premises?**



Usually, no. R436.1033, Rule 33 of the Administrative Rules state that a retail licensee of the commission can have in his or her establishment only those alcoholic beverages that have been purchased by the retail licensee from an authorized wholesale distributor. This effectively eliminates patrons from bringing onto premises their own beer, wine or spirits. There is an exception to this rule which allows hotel guests to bring in their own alcoholic beverages to the bedrooms or suites of a licensed hotel for consumption in these areas.



**Can a licensee give away alcoholic beverages in conjunction with a promotion?**



MCL 436.2025, Section 1025 (1) of the Michigan Liquor Control Code states " A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only."



**Can a gift basket store include alcoholic beverages in their merchandise?**



Generally, such enterprises are not eligible to obtain a license for the sale of alcohol since they do not meet the definition of an approved type of business under the Liquor Control Code. An of-age customer could however purchase the product and ask the basket business owner to include it in the basket if he or she signed a waiver stating that the recipient of the gift was over the age of 21 and that the product would not be consumed by any minors. Because of the potential liability in these situations, the Commission suggests adding a sparkling cider or other non-alcoholic beverage to the gift basket.



**Does someone need, or can they get, a temporary liquor license for a private affair at a banquet hall?**



The only type of temporary licenses available are for bona fide non-profit organizations such as Veterans of Foreign Wars, Knights of Columbus, etc. Normally, if someone is having a function at a banquet hall such as a wedding reception and the host and/or guests are supplying the food and alcoholic beverages and there are no charges of any kind including any entry fee or donation, no type of liquor license is available or required. However, it is recommended that those who contemplate such an activity contact the local law enforcement agency or prosecutor's office for any additional information, since they have jurisdiction in such matters.



**As a licensee, can I allow my friends to remain on the premises after the legal hour if no alcohol is served?**



No. R436.1403 Rule 3 (2) of the Administrative Rules states " Between the hours of 2:30 am and 12 noon on Sunday, or from 2:30 am and 7 am on any other day, an on-premise licensee shall not allow the licensed premises to be occupied by anyone except the on-premise licensee, the bona fide employees of the on premise licensee who are working, or bona fide contractors and employees thereof who are working ..." There are certain circumstances where a licensee may be granted a specific purpose permit to remain open beyond the legal hour for such things as the sale of food.