

DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

LIQUOR CONTROL COMMISSION

OFF-PREMISE LICENSES

(By authority conferred on the liquor control commission by section 215(1) of 1998 PA 58, MCL 436.1215(1))

R 436.1501 Definitions.

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

History: 1980 AACS.

R 436.1503 Hours and days of operation.

Rule 3. An off-premises licensee shall not sell, give away, deliver, or furnish alcoholic liquor between the hours of 2 a.m. and 7 a.m. on any day or between the hours of 2 a.m. and 12 noon on Sunday and shall not sell, give away, deliver, or furnish spirits between the hours of 2 a.m. and 12 midnight on Sunday, unless issued a Sunday sales permit by the commission which allows the licensee to sell spirits on Sunday between the hours of 12 noon and 12 midnight.

History: 1980 AACS.

R 436.1505 Rescinded.

History: 1980 AACS; 2003 AACS.

R 436.1507 Stock of liquor.

Rule 7. An off-premises licensee who is licensed to sell spirits shall carry a representative stock of all types of alcoholic liquor sold by the commission, which may be set by written order of the commission, and shall maintain a dollar amount of inventory of spirits, which may be set by written order of the commission.

History: 1980 AACS.

R 436.1509 Rescinded.

History: 1980 AACS; 1984 AACS; 1991 AACS; 1998-2000 AACS.

R 436.1511 Open containers on licensed premises prohibited; exception; consumption of liquor on licensed premises prohibited; exception.

Rule 11. (1) An off-premises licensee who is not licensed as an on-premises licensee shall not have any open containers of alcoholic liquor on the licensed premises, except for the following:

(a) A defective or sample bottle or can.

(b) A returnable container returned by a customer of the off-premises licensee for a refund of the deposit on the container.

(c) A bottle or can containing alcoholic liquor to be used in the preparation of bakery or deli items by the employees of the off-premises licensee who also holds a Michigan department of agriculture food establishment license, if all of the following conditions are met:

(i) The alcoholic liquor is used exclusively in the preparation of food products that are cooked or baked before consumption and, at the point of consumption, have an alcoholic content of less than ½ of 1%.

(ii) The bottle or can is resealed and stored in a locked, separate storage compartment within the food preparation area when the contents are not being used in food preparation.

(iii) The off-premises licensee maintains a clearly defined food preparation area on the licensed premises of not less than 500 square feet.

(iv) The off-premises licensee has obtained the approval of the commission for the use of alcoholic liquor in the preparation of food on the licensed premises.

(2) An off-premises licensee who is not licensed as an on-premises licensee shall not allow the consumption of alcoholic liquor on the licensed premises, except for the consumption of alcoholic liquor in sample bottles or cans. Only an off-premises licensee, or the clerk, servant, agent, or employee of the off-premises licensee, may consume the contents of a sample bottle or can on the licensed premises.

History: 1980 AACCS; 1998-2000 AACCS.

Editor's note: Pursuant to Section 56 of Act No. 306 of the Public Acts of 1969, as amended, being Section 24.256 of the Michigan Compiled Laws, this rule has been corrected at the request of the department to correct an obvious error. The rule contained a typographical error as published in the Michigan Register and filed with the Office of Great Seal. R 436.1511 (1)(c)(i) contained the word "exclusively" which should have read "exclusively".

R 436.1513 Sample bottles or cans; removal.

Rule 13. An off-premises licensee shall remove sample bottles or cans from the licensed premises within 24 hours of their receipt.

History: 1980 AACCS.

R 436.1515 Sale and delivery of alcoholic liquor.

Rule 15. (1) An off-premises licensee who is licensed to sell beer and wine shall not take orders for the sale of beer or wine and have the delivery of the beer or wine made to the retail customer by a wholesaler, manufacturer of beer or wine, an outstate seller of beer or wine, or their licensed representatives or salesperson, without the prior written approval of the commission.

(2) An off-premises licensee who is licensed to sell spirits shall not knowingly allow the delivery of spirits to a retail customer by a licensed representative or salesperson, unless the licensed representative or salesperson is acting on behalf of the retail customer.

History: 1980 AACCS.

R 436.1517 Type of business; change; approval.

Rule 17. An off-premises licensee shall not change the nature of business for which the license was issued by the commission without obtaining the prior written approval of the commission.

History: 1980 AACCS.

R 436.1519 Soliciting, accepting, or receiving rebates, refunds, or adjustments from a person other than the commission for broken or defective containers prohibited.

Rule 19. An off-premises licensee who is licensed to sell spirits shall not solicit, accept, or receive rebates, refunds, or adjustments for any broken or defective spirit containers, or case of containers, from a person other than the commission or an agent or employee of the commission.

History: 1980 AACCS.

R 436.1521 Outdoor service prohibited; exception.

Rule 21. An off-premises licensee shall not sell alcoholic liquor out-of-doors, except upon a written order of the commission.

History: 1980 AACS.

R 436.1523 Allowing consumption on licensee's property adjacent to licensed premises prohibited.

Rule 23. An off-premises licensee shall not knowingly allow a person to consume alcoholic liquor on property which is owned, leased, or possessed by the licensee and which is adjacent to the licensed premises.

History: History: 1980 AACS; 1998-2000 AACS.

R 436.1525 Sale by club licensee of liquor to nonmember prohibited.

Rule 25. A club licensee who is also licensed with an off-premises license shall not sell alcoholic liquor to a nonmember.

History: 1980 AACS.

R 436.1527 Delivery of liquor to person under 21 years of age prohibited; requirements for delivery of liquor to persons of legal age.

Rule 27. (1) A licensee authorized to sell alcoholic liquor for consumption off the premises shall not make a delivery of alcoholic liquor to any person unless that person is 21 years of age.

(2) A licensee authorized to sell alcoholic liquor for consumption off the premises who takes an order for alcoholic liquor from a purchaser for delivery to an individual or business at an address other than that of the person making the purchase may deliver or have delivered that alcoholic liquor to the residential or business address indicated by the purchaser making the order provided the individual accepting delivery of the alcoholic liquor is 21 years of age or older and the person making the delivery of the alcoholic liquor verifies that the individual accepting the delivery is 21 years of age or older.

(3) A licensee making a sale and delivery of alcoholic liquor under the provisions of this rule and/or the person making the delivery of the alcoholic liquor shall maintain proof for inspection by the commission of the documents used to determine the age of the individual to whom the alcoholic liquor was delivered.

History: 1980 AACS; 2001 AACS.

R 436.1529 Sale of spirits at a uniform price.

Rule 29. An off-premises licensee who is licensed to sell spirits shall not sell spirits at a price other than the selling price established by the commission, which shall include all taxes collected by the commission at the time of sale to the off-premises licensee and the state sales tax.

History: 1980 AACS.

R 436.1531 Return of alcoholic liquor product.

Rule 31. An off-premises licensee may accept from a customer, for a cash refund or exchange, an alcoholic liquor product purchased by the customer from the off-premises licensee if the product is demonstrably spoiled or contaminated or the container damaged to the extent that the contents would likely be of an unsanitary nature or unfit for consumption and if the returned product is not resold and is removed from the licensed premises as soon as practicable, but not more than 14 days after its return.

History: 1998-2000 AACCS.

R 436.1533 Off-premises server training; requirements.

Rule 33. (1) As used in this rule, all terms and phrases shall have the same meaning as defined in Section 906(1) of the act.

(2) The commission shall approve the establishment of an off-premises server training program designed for off-premises licensees. The commission may adopt the existing standards and programmatic framework of private entities and may delegate nondiscretionary administrative functions to outside private entities.

(3) A person may apply to the commission for qualification as an administrator for the offering of an off-premises server training program and instructor certification classes. Upon approval by the commission of an off-premises server training program, the commission shall appoint the person sponsoring the server training program as an administrator of that program.

(4) 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.

(5) 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) Identification of the visible signs associated with intoxication.(b) Implementation of intervention procedures and maintaining incident reports.

(c) The understanding of acceptable forms of personal identification, techniques for determining the validity of identification, and procedures for dealing with fraudulent identification.

(d) Assessment of the need to ask for identification based on appearance or company policy.

(e) The identification of potential second-party sales and furnishing of alcoholic liquor to minors by persons 21 years of age or over.

(f) The understanding of Michigan laws pertaining to minors attempting to purchase and second-party sales or furnishing of alcoholic liquor from adults to minors.

(g) The understanding of possible legal, civil, and administrative consequences of violations of this act, the rules of the commission, and other pertinent state laws.

(h) Knowledge of the legal hours of alcohol sales.

(i) Any other pertinent laws as determined by the commission.

(6) If the commission conditionally approves the issuance of a license for the purpose of meeting the server training requirements of that approval, then the time period allowed for meeting the server training requirements shall commence on the date the license is issued.

(7) An administrator of a server training program approved by the commission shall administer a comprehensive examination to participants of the program, including individuals seeking certification as instructors within the program. The examination shall thoroughly test the individual's knowledge and competency in the curriculum topics required by subrule (5) of this rule. The minimum passing grade for the examination, for instructor certification, and for all other participants in the program shall be not less than 70%, but shall be not less than 85% for instructors if administered the same examination as other participants in the program. Examinations administered in other than a written form must be approved by the commission. Examinations may be proctored by someone other than a certified instructor of the server training program if the proctor is an agent of the administrator of the server training program and is acceptable to the commission. Other methods of administering an examination must be approved by the commission.

(8) If server training or instructor training is conducted by the administrator of a server training program approved by the commission by means other than classroom training, then the alternative training method must first be approved by the commission.

(9) Certification issued by the administrator of an approved server training program for instructors and other participants shall expire not more than 3 years from the date of issuance.

(10) An off-premises licensee, when ordered by the commission to meet a server training requirement, shall maintain on the licensed premises proof of active, unexpired server training certification or current recognition by a server training program approved by the commission for those persons included in the commission order.

History: 2010 AACSB.