

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Licensing and Regulatory Affairs

2. Bureau:

Liquor Control Commission

3. Promulgation type:

MCL 24.244 (1)

4. Title of proposed rule set:

Advertising

5. Rule numbers or rule set range of numbers:

R 436.1301 - R 436.1339

6. Estimated time frame:

6 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The general purpose of R 436.1313 is to provide regulations on the size and illumination of advertising signs and limit which entities may provide signs to retailer licensees. The Commission requests that the citation of R 436.1001(u) in subrule (4) be corrected to R 436.1001(1) as this citation was erroneously stated when the rule was last updated in 2003.

The general purpose of R 436.1329 when it was promulgated in 1975 was to protect the health, safety, and welfare of the general public by providing limits on the number, size, and duration of temporary bin displays of alcoholic liquor allowed on the premises of retailer licensees. The Commission requests that R 436.1329 be rescinded due to the enactment of 2017 PA 83, MCL 436.1610b, which codified the text of the rule, superseding and rendering the rule obsolete.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

General rulemaking authority is conferred on the Michigan 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.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Article IV, Section 40, of the Michigan Constitution (1963), Section 201 of 1998 PA 58, MCL 436.1201, Section 215(1) of 1998 PA 58, MCL 436.1215(1), and Executive Reorganization Order No. 2011-4, MCL 445.2030.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

Article IV, Section 40, of the Michigan Constitution (1963), permits the legislature to establish a Liquor Control Commission, which shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. MCL 436.1201(2) provides the Commission with the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the manufacture, importation, possession, transportation, and sale thereof, and MCL 436.1215(1) provides the Commission with general rulemaking authority.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

R 436.1313 does not conflict with any similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level. R 436.1329 does not conflict with any similar rules, compliance requirements, or other standards adopted at the regional or federal level, but the rule does duplicate and conflict with similar language enacted in 2017 PA 83, MCL 436.1610b.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

R 436.1313 is not listed on the department's annual regulatory plan for the current year. R 436.1329 is listed on the department's annual regulatory plan for the current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

MCL 24.244 (1)

A. Explain why the rules are being promulgated under 24.244.

The proposed amendment to R 436.1313(4) is being promulgated under MCL 24.244 as it corrects an error in the rule from when it was last updated, and it will amend the subrule number cited so that if the subrule is amended in the future the rule will not be incorrect or require further amending.

The proposed rescission of R 436.1329 is being promulgated under MCL 24.244 because of the enactment of 2017 PA 83, MCL 436.1610b, which has superseded the rule and rendered it obsolete.

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.