

**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:**

Beer

**5. Rule numbers or rule set range of numbers:**

R 436.1601 - R 436.1659

**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 the R 436.1621 is to provide regulations relative to beer tax reporting and payments. The Commission requests that this rule be updated to comply with an amendment to section 409(3) of the Michigan Liquor Control Code, MCL 436.1409(3), enacted under 2020 PA 109, which prohibits the Commission from requiring the beer excise tax from being paid in less than quarterly intervals.

The general purpose of R 436.1633 is to provide regulations relative to refunds on defective beer products to retailers by manufacturers or wholesalers. The Commission requests that this rule be rescinded due to the enactment of 2017 PA 130, which codified regulations for manufacturers and wholesalers to provide refunds or replacements of defective beer products, 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 436.1621 does not conflict with any similar rules, compliance requirements, or other standards adopted at the regional or federal level, but the rule conflicts with the limitations related to the frequency of payment of beer taxes enacted in 2020 PA 109, MCL 436.1409(3). R 436.1633 does not conflict with any similar rules, compliance requirements, or other standards adopted at the regional or federal level, but the rule is duplicative of state statute due to the enactment of 2017 PA 130, MCL 436.1609c.

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

The requirements for the reporting and payment of beer taxes addressed under R 436.1621 is included in the Liquor Control Commission's beer tax reporting instructions and form.

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

R 436.1621 is not listed on the department's annual regulatory plan. R 436.1633 is listed on the department's annual regulatory plan.

**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 amendments to R 436.1621 are being promulgated under MCL 24.244 as they correct a conflict between MCL 436.1409(3) that was enacted under 2020 PA 109 related to the frequency by which the Commission may require the payment of beer excise taxes.

The proposed rescission of R 436.1633 is being promulgated under MCL 24.244 because of the enactment of 2017 PA 130, MCL 436.1609c, 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.**