

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:

Wine

5. Rule numbers or rule set range of numbers:

R 436.1701 - R 436.1749

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 436.1725 is to provide regulations relative to wine tax reporting and payments. The Commission requests that this rule be updated to comply with an amendment to section 301(9) of the Michigan Liquor Control Code, MCL 436.1301(9), enacted under 2020 PA 110, which prohibits the Commission from requiring the wine excise tax from being paid in less than quarterly intervals.

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 436.1725 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 wine taxes enacted in 2020 PA 110, MCL 436.1301(9).

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 wine taxes addressed under R 436.1725 are included in the Liquor Control Commission's wine 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 436.1725 is not 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 436.1725 are being promulgated under MCL 24.244 as they correct a conflict between MCL 436.1301(9) that was enacted under 2020 PA 110 related to the frequency by which the Commission may require the payment of wine excise taxes.

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.