

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:

Church or School Hearings

5. Rule numbers or rule set range of numbers:

R 436.1951 - R 436.1963

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 436.1953 and R 436.1959 is to provide regulations on the procedures for the Commission to notify churches or schools of a proposed liquor license within 500 feet of the church or school and to determine the burden of proof in a church or school hearing. The Commission requests that the citations of section 107(7) and 111(8) of 1998 PA 58, MCL 436.1107(7) and MCL 436.1111(8), that appear in both rules be amended to strike the subsection numbers to avoid incorrect citations when future statutory changes occur.

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.

Neither rule conflicts with or duplicates similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

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?

No.

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 436.1953 and R 436.1959 are being promulgated under MCL 24.244 to correct errors in statute citations in the rules from when the statute subsections were renumbered. The amendments to these rules will correct the statute citations so that if the statute sections are amended in the future, the rules will not be incorrect or require further amendment.

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.