

Michigan Municipal League

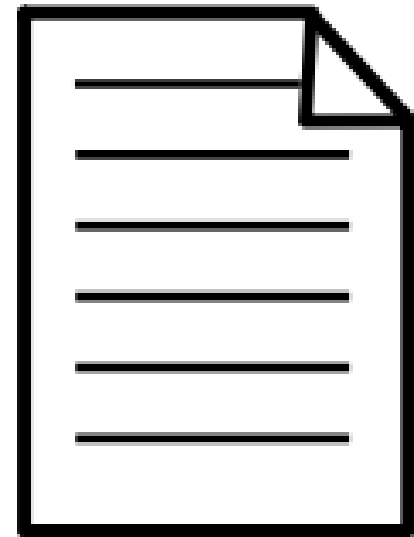
LIQUOR LICENSING: WHAT YOU NEED TO KNOW NOW!!!



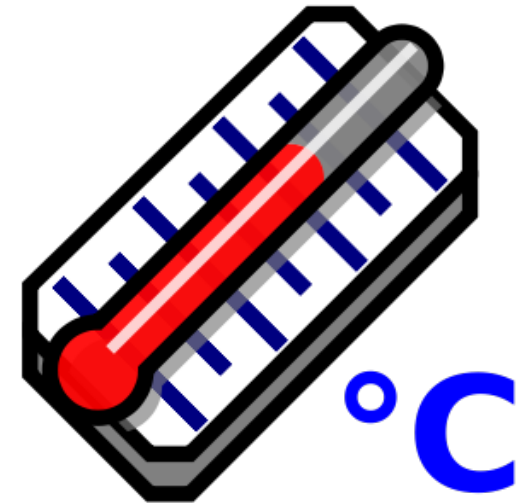
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LESS LOCAL CONTROL MORE LOCAL ORDINANCES



TAKING THE MLCC'S TEMPERATURE





For decades, the Courts, the Michigan Liquor Control Commission (“MLCC”) and local governments interpreted the Liquor Code to mean that the power of the MLCC to issue Class C licenses was limited by the requirement that municipalities approve the issuance or transfer of the license BEFORE the MLCC could issue a license. In other words, without local approval of an application for a Class C license, the MLCC would not issue the license. The local government essentially had veto power.



On June 21, 2012, the MLCC posted Bulletin No. 2012-12 which changed the local approval requirements. Effective July 1, 2012, approvals from local units of government were only needed for the issuance of a new license. This means a license that has never before been issued by the MLCC, for example a Class C quota license. Licenses and applicants are no longer required to obtain local approval to transfer ownership, transfer interest or transfer the locale of an existing license.



This means that municipalities no longer had the control over the transfer of liquor licenses in their towns. The MLCC effectuated this change based upon the plain language of the Code. Theoretically, this change should work to streamline the application process. However, many municipalities are concerned about no longer have the “veto power” they once enjoyed and often employed.



The MLCC will continue to review all comments received under rule R, 436.1105(2), which enumerates a list of qualifications of an applicant, such as: the applicant's management experiences of licensed businesses, moral character, convictions and excessive alcohol use. The MLCC will also consider the written opinions of a local legislative body or police agency very seriously.

The MLCC no longer requires any investigation or approval from local law enforcement.

The following basic changes to the MLCC Application process effect Class C licenses and those who apply:

PRE-BULLETIN	POST-BULLETIN
<p>Local legislative body approval required for all new, and transfers of, on-premise licenses.</p>	<p>Local legislative body approval required only for new on-premise licenses.</p>
<p>MLCC Provided notice and all required MLCC forms directly to the local unit of government.</p>	<p>MLCC will only provide “notice” of the pending application. The MLCC will provide the Applicant with the appropriate local forms and police forms. It is the Applicant’s responsibility to directly submit the required MLCC forms to the local unit of government.</p>
<p>Police or Sheriff’s Department recommendations were required to be submitted to the MLCC before the MLCC would consider applications for new and transfers of on-premise licenses.</p>	<p>Except for certain permits, Police or Sheriff’s Department recommendations are no longer required.</p>
<p>All dance, entertainment, and topless activity permits required Police or Sheriff’s department and local legislative body Approval.</p>	<p>On December 4, 2012, the U.S. District Court held in S.A. Restaurants, Inc. v Deloney, that MCL 436.1916(10) was unconstitutional. Therefore the MLCC no longer requires any approvals for dance or entertainment permits.</p>

LOCAL APPROVAL CHART



On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Add Space	No	No	No	Yes	Yes	
Change Specific Purpose Permit hours	No	No	No	No	No	
Change status	No	No	No	No	No	
Correct address	No	No	No	Yes	No	
Drop Space (current licensees)	No	No	No	Yes	Yes	
New Additional Bar	No	No	No	No	Yes	\$350.00 per bar
New A-Hotel License	Yes	No	Yes	Yes	Yes	\$250.00
New Aircraft License	No	No	Yes	Yes	Yes	\$600.00
New Banquet Facility Permit	Yes	No	Yes	Yes	Yes	\$600.00
New B-Hotel License	Yes*	No	Yes	Yes	Yes	\$600.00
New Brewpub License	Yes*	No	Yes	Yes	Yes	\$100.00
New Catering Permit	No	No	Yes	No	Yes	\$100.00
New Class C issued under MCL 436.1521a(1)(a)	Yes	No	Yes	Yes	Yes	\$20,000 upon licensure
New Class C issued under MCL 436.1521a(1)(b)	Yes	No	Yes	Yes	Yes	\$20,000 upon licensure
New Class C License	Yes*	No	Yes	Yes	Yes	\$600.00
New Class G-1 License	Yes*	No	Yes	Yes	Yes	\$1,000.00
New Class G-2 License	Yes*	No	Yes	Yes	Yes	\$500.00
New Club License	Yes*	No	Yes	Yes	Yes	\$300.00

On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
New Continuing Care Retirement Center License	Yes*	No	Yes	Yes	Yes	\$600.00
New Dance Permit	No	No	Yes	No	Yes	
New Dance-Entertainment Permit	No	No	Yes	No	Yes	
New Direct Connection	No	No	No	Yes	No	
New Entertainment Permit	No	No	Yes	No	Yes	
New Extended Hours Permit (Dance, Topless Activity, Entertainment)	No	No	Yes	No	Yes	
New Living Quarters Permit	No	No	Yes	No	Yes	
New Outdoor Service	No	No	No	Yes	No	
New Participation Permit	No	No	Yes	No	No	
New Resort A-Hotel License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort B-Hotel License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort Class C License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New Resort Tavern License	Yes*	No	Yes	Yes	Yes	\$20,000 Enhancement upon licensure
New SDM in conj with On Premise license	No	No	Yes	Yes	Yes	\$100.00
New Specific Purpose Permit (Food, Golf, etc.)	No	No	Yes	No	Yes	
New Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
New Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
New Tavern License	Yes*	No	Yes	Yes	Yes	\$250.00

On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
New Topless Activity Permit	No	No	Yes	No	Yes	
New Train License	No	No	Yes	Yes	Yes	\$100.00
New Watercraft License	No	No	Yes	Yes	Yes	\$100.00
Release license from escrow (in escrow <6 months)	No	No	No	No	No	
Release license from escrow (in escrow 6+ months)	No	No	No	Yes	No	
Temporary Permit	No	Yes	Yes	No	Yes	
Transfer Classification Class C to Tavern	No	No	Yes	No	Yes	
Transfer Classification Class C/Tavern to G1/G2	Yes	No	Yes	Yes	Yes	
Transfer Classification Hotel to Class C/Tavern	Yes	No	Yes	Yes	Yes	
Transfer Classification Tavern to Class C	Yes	No	Yes	No	Yes	\$600.00
Transfer Location- On Premise	No	No	Yes	Yes	Yes	
Transfer of stock or transfer of interest	No	No	Yes	Yes	Yes	Upon approval by the Commission pursuant to MCL 436.1529(3)
Transfer ownership of Additional Bar	No	No	No	No	No	\$350.00
Transfer ownership of A-Hotel License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Aircraft License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Banquet Facility Permit	No	No	Yes	Yes	No	\$600.00
Transfer ownership of B-Hotel License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Brewpub License	No	No	Yes	Yes	Yes	\$100.00

On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer ownership of Catering Permit	No	No	Yes	No	No	\$100.00
Transfer ownership of Class C License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Class G-1 License	No	No	Yes	Yes	Yes	\$1,000.00
Transfer ownership of Class G-2 License	No	No	Yes	Yes	Yes	\$500.00
Transfer ownership of Continuing Care Retirement Center License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Dance Permit	No	No	Yes	No	No	
Transfer ownership of Dance-Entertainment Permit	No	No	Yes	No	No	
Transfer ownership of Direct Connection	No	No	No	Yes	No	
Transfer ownership of Entertainment Permit	No	No	Yes	No	No	
Transfer ownership of Extended Hours Permit(Dance, Topless, Entertain)	No	No	Yes	No	No	
Transfer ownership of Living Quarters Permit	No	No	Yes	No	No	
Transfer ownership of Outdoor Service	No	No	No	Yes	No	
Transfer ownership of Participation Permit	No	No	Yes	No	No	
Transfer ownership of Resort A-Hotel License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Resort B-Hotel License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Resort Class C License	No	No	Yes	Yes	Yes	\$600.00
Transfer ownership of Resort Tavern License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Specific Purpose Permit (Food, Golf, etc.)	No	No	Yes	No	No	

On Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer ownership of Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
Transfer ownership of Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
Transfer ownership of Tavern License	No	No	Yes	Yes	Yes	\$250.00
Transfer ownership of Topless Activity Permit	No	No	Yes	No	No	
Transfer ownership of Train License	No	No	Yes	Yes	Yes	\$100.00
Transfer ownership of Watercraft License	No	No	Yes	Yes	Yes	\$100.00

Off Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Transfer of stock or transfer of interest	No	No	Yes	Yes	Yes	Upon approval by the Commission pursuant to MCL 436.1529(3)
Transfer owner Drive-thru/up/in Window(w/alcohol beverage sales)	No	No	No	Yes	No	
Transfer ownership of Beer & Wine Sampling Permit	No	No	Yes	No	No	
Transfer ownership of Catering Permit	No	No	Yes	No	No	\$100.00
Transfer ownership of Direct Connection	No	No	No	Yes	No	
Transfer ownership of Gas Pumps	No	No	No	Yes	No	
Transfer ownership of Living Quarters Permit	No	No	Yes	No	No	
Transfer ownership of Participation Permit	No	No	Yes	No	No	
Transfer ownership of Resort SDD License	No	No	Yes	Yes	Yes	\$150.00
Transfer ownership of SDD License	No	No	Yes	Yes	Yes	\$150.00
Transfer ownership of SDM License	No	No	Yes	Yes	Yes	\$100.00
Transfer ownership of Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
Transfer ownership of Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee

Off Premise Transactions	Is Local Legislative Body approval required?	Is Local Police approval required?	Is Local Legislative Body or Police opinions required to be considered?	MLCC Investigation required?	Inspection Fees?	Base Fees
Add Space	No	No	No	Yes	Yes	
Change status	No	No	No	No	No	
Correct address	No	No	No	Yes	No	
Drop Space	No	No	No	Yes	Yes	
New Beer & Wine Sampling Permit	No	No	Yes	No	Yes	
New Catering Permit	No	No	Yes	No	Yes	\$100.00
New Direct Connection	No	No	No	Yes	No	
New Gas Pumps	No	No	No	Yes	No	
New Living Quarters Permit	No	No	Yes	No	Yes	
New Participation Permit	No	No	Yes	No	No	
New Resort SDD License	No	No	Yes	Yes	Yes	\$150.00 upon licensure
New SDD License	No	No	Yes	Yes	Yes	\$150.00
New SDM License	No	No	Yes	Yes	Yes	\$100.00
New Sunday Sales Permit (AM)	No	No	Yes	No	No	\$160.00
New Sunday Sales Permit (PM)	No	No	Yes	No	No	15% of total license fee
Release license from escrow (in escrow <6 months)	No	No	No	No	No	
Release license from escrow (in escrow 6+ months)	No	No	No	Yes	No	
Transfer Location- Off Premise	No	No	Yes	Yes	Yes	

MLCC'S GENERAL POSITION REGARDING LOCAL CONTROL

- DISCUSSION
- RECENT MLCC ORDER




At the [REDACTED] 2014 Meeting of the Michigan Liquor Control Commission
in Southfield, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Teri L. Quimby, Commissioner
Dennis Olshove, Commissioner

LICENSING APPROVAL ORDER

[REDACTED] ("applicant") has filed an application for transfer ownership of
escrowed 2014 Class C license with Sunday Sales Permit (P.M.) from [REDACTED]
transfer location (governmental unit) under MCL 436.1531(1) from [REDACTED],
[REDACTED], to the above noted location;



Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have 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 under MCL 436.1201(2).

The Commission finds that it has considered the provisions as required in administrative rule R 436.1105 in the consideration of this request.

The Commission received a letter from the City of [REDACTED] Police Department dated June 17, 2014 and a Resolution from the City of [REDACTED] dated June 16, 2014 regarding this application. Under administrative rule R 436.1105(2), the Commission shall consider the opinion of the local law enforcement agency and the local legislative body in determining whether the license should be issued. The Commission has considered this information in reaching its finds and conclusion.

After reviewing the file and discussion of the issues at the meeting, the Commission finds that the applicant has met the requirements and this request should be approved.

THEREFORE, IT IS ORDERED that:

- A. The applicant's request for transfer of the escrowed 2014 Class C license is APPROVED subject to the following:
- F. Under administrative rule R 436.1003, the licensee shall comply with all state and local building, plumbing, zoning, sanitation, and health laws, rules and ordinances as determined by the state and local law enforcement officials who have jurisdiction over the licensee. Approval of this license by the Michigan Liquor Control Commission does not waive any of these requirements. The licensee must obtain all other required state and local licenses, permits, and approvals before opening the business for operation.
- G. The licensee's failure to comply with all laws and rules may result in the revocation of the approvals contained in this order.

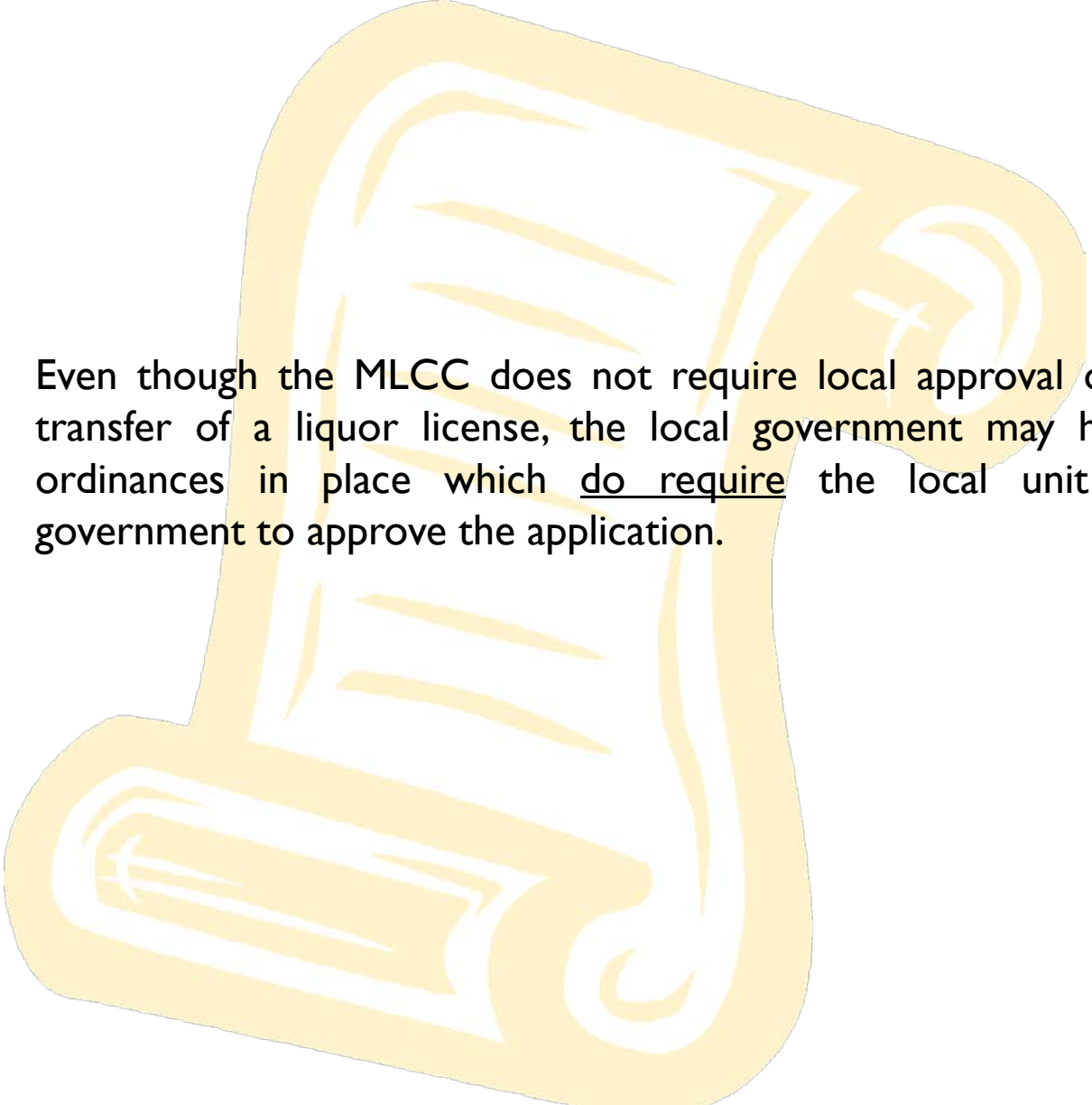
MICHIGAN LIQUOR CONTROL COMMISSION



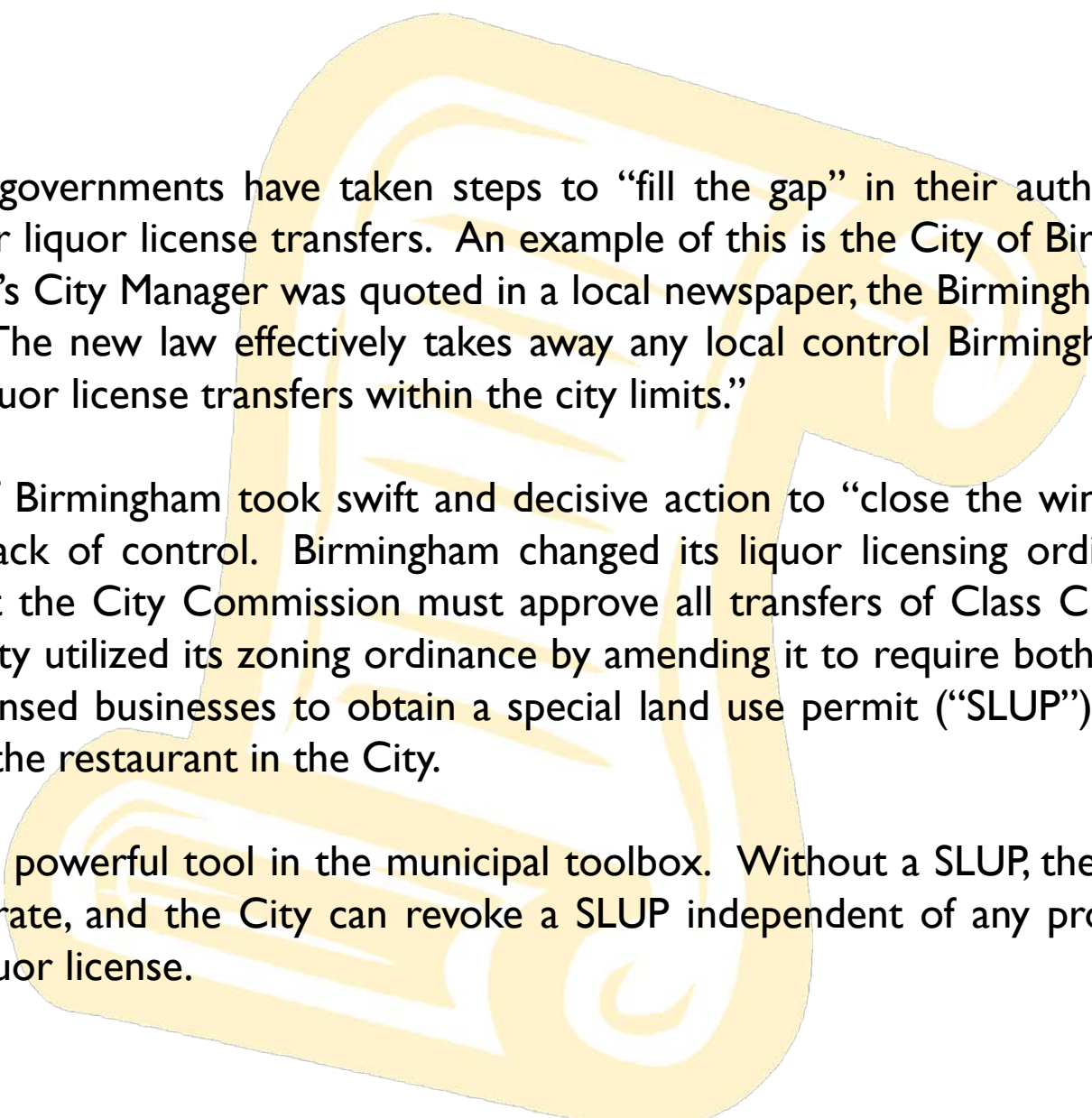
Andrew J. Deloney, Chairman

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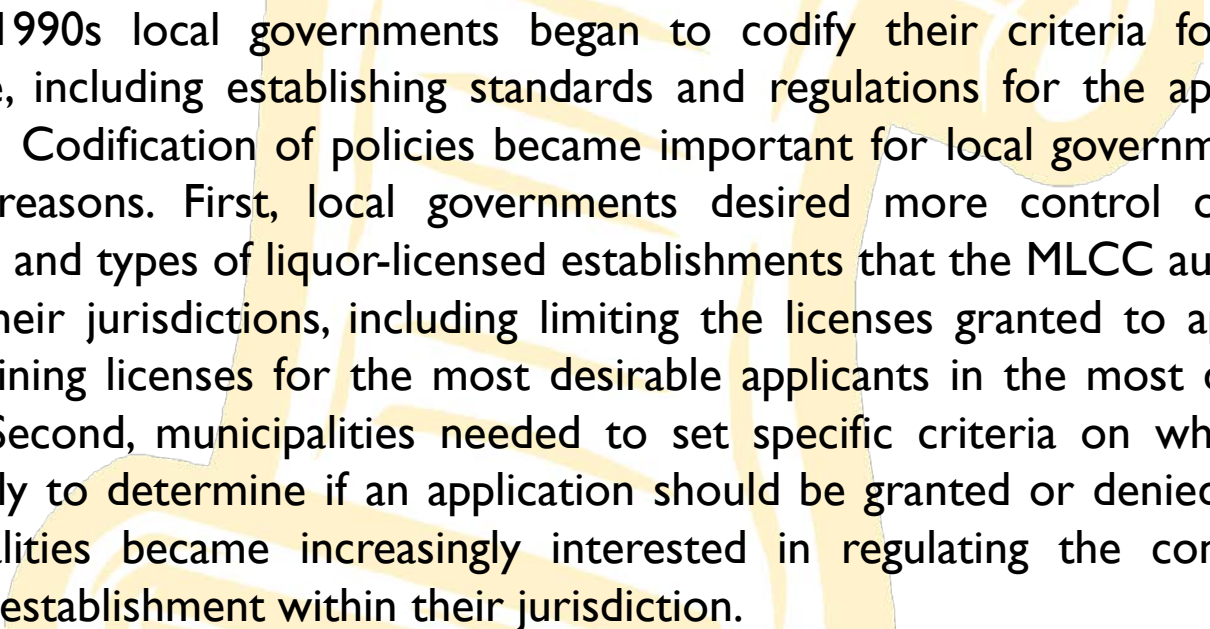
Even though the MLCC does not require local approval of a transfer of a liquor license, the local government may have ordinances in place which do require the local unit of government to approve the application.



Many local governments have taken steps to “fill the gap” in their authority and control over liquor license transfers. An example of this is the City of Birmingham. Birmingham’s City Manager was quoted in a local newspaper, the Birmingham Patch, as saying, “The new law effectively takes away any local control Birmingham once had over liquor license transfers within the city limits.”

The City of Birmingham took swift and decisive action to “close the window” on the City’s lack of control. Birmingham changed its liquor licensing ordinance to require that the City Commission must approve all transfers of Class C Licenses. Also, the City utilized its zoning ordinance by amending it to require both new and existing licensed businesses to obtain a special land use permit (“SLUP”) in order to operate the restaurant in the City.

A SLUP is a powerful tool in the municipal toolbox. Without a SLUP, the business cannot operate, and the City can revoke a SLUP independent of any proceedings against a liquor license.



In the 1990s local governments began to codify their criteria for liquor licensure, including establishing standards and regulations for the application process. Codification of policies became important for local governments for several reasons. First, local governments desired more control over the numbers and types of liquor-licensed establishments that the MLCC authorized within their jurisdictions, including limiting the licenses granted to applicants and retaining licenses for the most desirable applicants in the most desirable areas. Second, municipalities needed to set specific criteria on which they could rely to determine if an application should be granted or denied. Third, municipalities became increasingly interested in regulating the conduct of licensed establishment within their jurisdiction.



If you work for a municipality, check any ordinances dealing with liquor licensing, the ordinance may need to be revised.

If you represent an Applicant MAKE SURE you check with the municipality when applying for a license.



Every Order the MLCC issues requires the Licensee to abide by all local ordinances.

Q) What if the MLCC issues a Liquor License and the municipality does not approve the liquor license based on its ordinance??

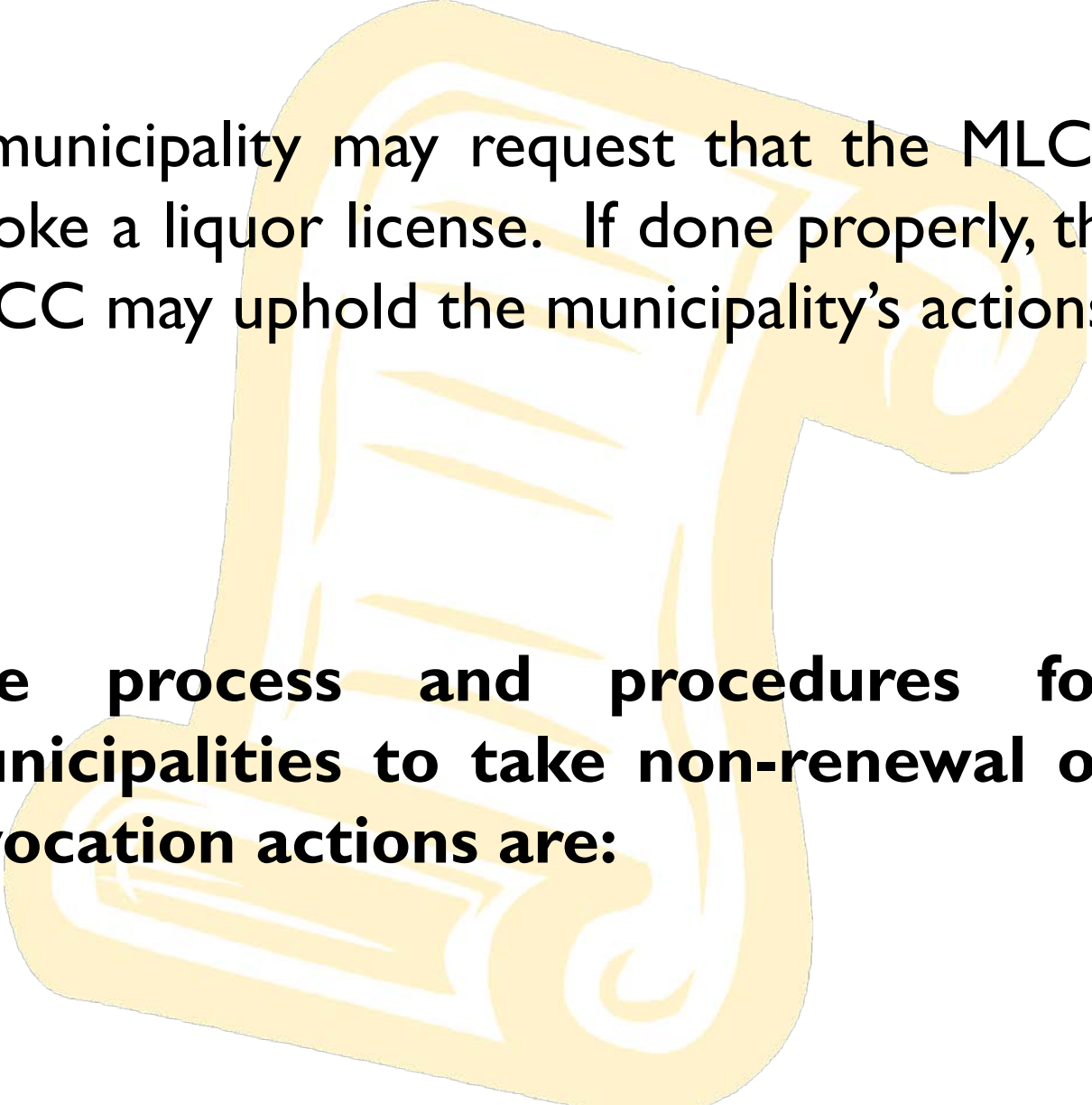
A) This has not been tested. However, experience and recent discussions with the MLCC indicate that the reason for the municipality's refusal may dictate the MLCC's position.

Municipal Objection to Renewal or Revocation of License

The municipality has two options under the Liquor Code. Every year every liquor license in The State of Michigan must be renewed by May 1st. The municipality may object to the renewal of a Liquor License, or make a recommendation to the MLCC that the Liquor License be revoked.

RECENT DEVELOPMENT

The reason for the municipality's objection is very important, the MLCC may not follow a municipality's objection under certain circumstances, such as, the Licensee's failure to pay taxes.



A municipality may request that the MLCC revoke a liquor license. If done properly, the MLCC may uphold the municipality's actions.

The process and procedures for municipalities to take non-renewal or revocation actions are:

Objections to Renewals and Recommendations for Revocation

Statutory Authority

MCL 436.1501(2) and (3) provides three tools for local units of government to use concerning licenses issued by the Michigan Liquor Control Commission.

1. Objection to renewal of an on-premise license
2. Request for revocation of an on-premise license
3. Request for revocation of an off-premise license

Objection to Renewal

An objection to a renewal must be filed with the MLCC by the local legislative body not less than 30 days before the date of expiration of the license. While the statute appears to be silent on the rest of the process, the courts have clearly established that a licensee has a property interest in the license, and is therefore entitled to due process protection. [See *Bundo v City of Walled Lake*, 395 Mich 697 (1976)]

Further, administrative rule R 436.1061 provides that:

“Any permit issued to a licensee by the commission or any privilege granted to a licensee by the commission may be revoked or suspended by the commission or a hearing commissioner, **after due notice and proper hearing**, if the licensee or the establishment no longer qualifies for the permit or the privilege or if the licensee is found to be in violation of the act or a commission rule which directly pertains to the permit issued or the privilege granted.”

If an objection to renewal of a license is received, then the Commission will proceed to schedule and notice a hearing.

Request for Revocation of an On-Premise License

A local unit of government may request the revocation of a license or permit, after due notice and proper hearing at the local level. Upon receipt of this request, the Commission must revoke the license or permit. The statutory language is clear, using the words “shall revoke.” This provision applies to on-premise establishments.

If a request for revocation of an on-premise license or permit is received, then the Commission will proceed to schedule and notice a hearing. The Commission will review and consider the information presented from both sides.

For example, in January 2012, the Commission acted on such a request in the case of an on premises licensee. A request was received by the local unit of government to revoke the permit. After a show cause hearing as to whether the license and/or permit should be considered for revocation, the Commission determined that the license as well as the requested permit should be revoked. Under its own motion, administrative rule R 436.1925(1), the Commission revoked the license and well as the permit as requested by the local unit under MCL 436.1501(2).

Request for Revocation of an Off-premise License

For off-premise establishments, a local unit of government may request, by resolution, that the Commission revoke the license if the off-premise licensee has sold or furnished alcoholic liquor to a minor on at least three separate occasions in a consecutive three-month period. The Commission may suspend or revoke the license and any permits.

If a request for revocation of an on-premise license or permit is received, then the Commission will proceed to schedule and notice a hearing. The Commission will review and consider the information presented from both sides.

Documents from the Local Unit of Government

In making any of the requests authorized by law and discussed above, the local unit of government should, at a minimum, present documentation to the Commission concerning the proper notice to the licensee of the hearing held at the local level, any board resolutions pertaining to the request, and any other findings of fact, ordinance, or other relevant information for the Commission to consider in reviewing and considering the request made by the local unit of government.

Documents from the Licensee

The licensee is welcome to submit any information or documentation concerning the license and the request by the local unit of government.

Filing of Papers

Under administrative rule R 436.1927, all documents and papers pertaining to a hearing or appeal hearing shall be filed at the Lansing office of the Commission. The presiding Commissioner has the discretion as to whether or not to allow papers to be filed at a hearing or appeal hearing.

The Effect of Revocation

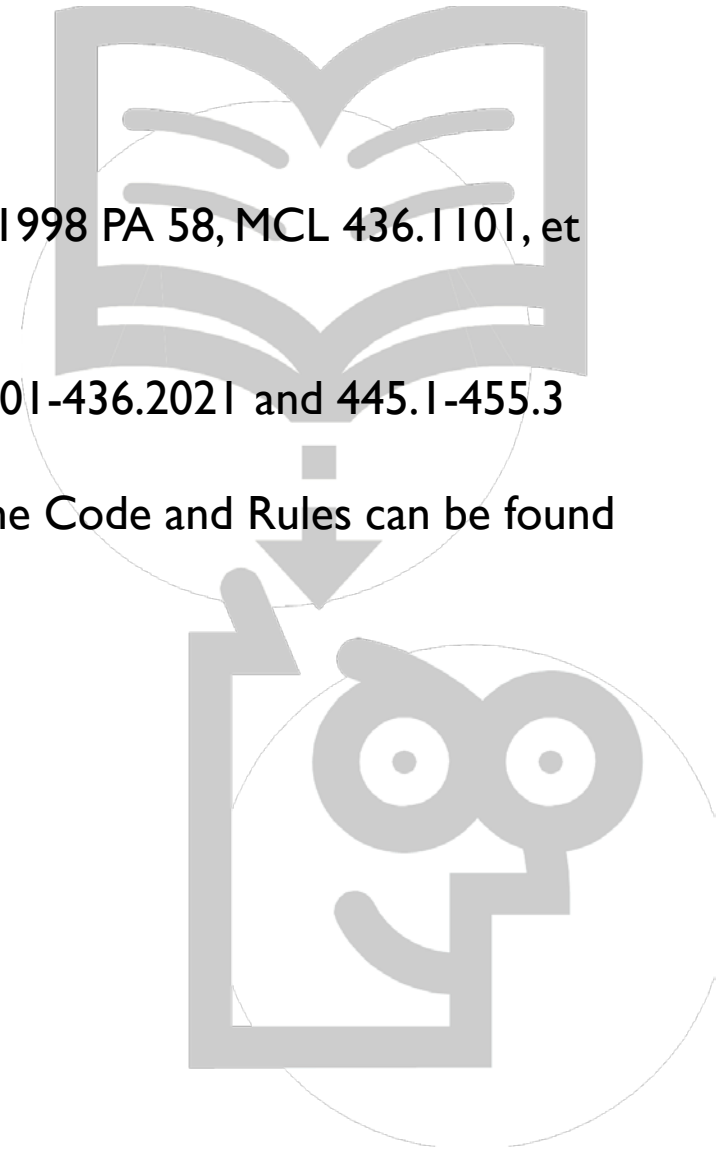
Revocation is a permanent action and means that the licensee loses all ownership rights to the liquor license. The former licensee cannot transfer the revoked license. Also, the former licensee cannot apply for another liquor license for two years.

The Effect of Nonrenewal

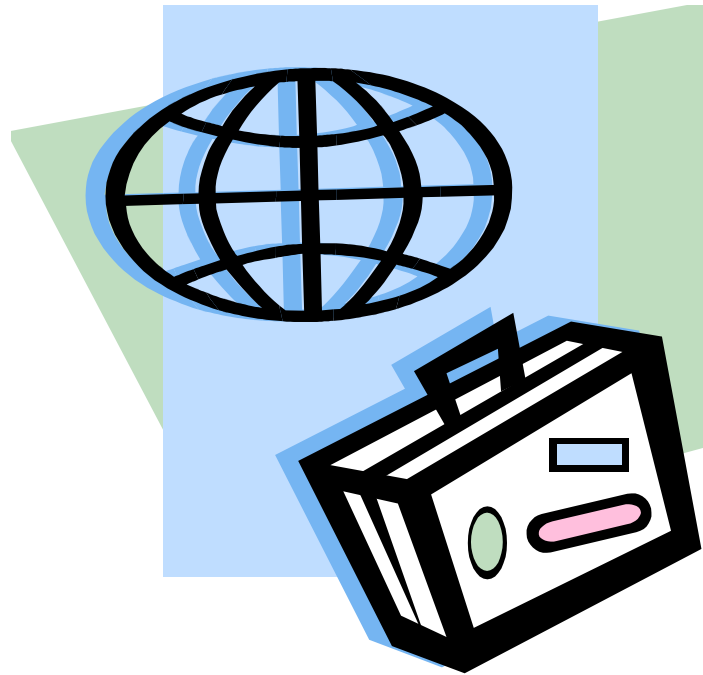
A liquor license that was not renewed may remain in escrow for up to five years but cannot be placed in active operation or transferred to another person or entity unless the municipality adopts a resolution approving the renewal.

References

- 1) The Michigan Liquor control Code of 1998, 1998 PA 58, MCL 436.1101, et seq.
- 2) The Michigan Administrative Code, R 436.1001-436.2021 and 445.1-455.3
- 3) A comprehensive, consolidated booklet of the Code and Rules can be found at the MLCC's website (www.mich.gov/lcc).



FINDING AND OPERATING A LIQUOR LICENSE





On-Premise Liquor Licenses

All of the following licenses enable the Licensee to sell and serve alcohol for consumption on the licensed premises. Most often, these are restaurants, bars, hotels and entertainment venues such as bowling alleys and golf courses.

Class C Licenses.


A Class C liquor License enables the Licensee to sell alcoholic beverages (beer, wine and spirits) for consumption on the premises. Class C licenses include Hotel Licenses and Tavern Licenses. Both of these licenses are “subsets” of a Class C License. In other words, should a Hotel or a Tavern seek a License, it would apply for Class C License and ask that the License be “reclassified” for the particular use.

- **Tavern License.** A Tavern License enables the Licensee to sell beer and wine only.

- **Hotel License.** A “B Hotel” License is an On-Premise License for a Hotel to sell beer, wine, and spirits. An “A Hotel” is an On-Premise License for the sale of beer and wine only.

Quota System.


The MLCC operates under what is known as a “quota system” for Class C Licenses. Each municipal unit of government in Michigan is allocated one Class C Liquor License for every 1,500 persons (or major fraction thereof) in the municipality’s population (“Original Quota”).



Other Licenses Available to Applicants – Once the Original Quota of Licenses is given out by the municipality, State law provides for the following other types of “license transfers” or resort licenses to operate Class C establishments:

Intra County Transfers – This means an applicant could buy a license from a former operator in another Oakland County community. These licenses have been placed into escrow with the MLCC and can be transferred to another municipal unit upon the approval of the municipality and the MLCC. The cost of these licenses vary.

Original 550 Resort Licenses. – Many years ago, the MLCC issued 550 of these licenses which are transferable anywhere in the State. These licenses were not part of the Original Quota allotted to the municipalities. Some of these licenses are available to purchase from escrow. The cost of these licenses varies



New Resort Licenses – These are licenses which are available in addition to the Original Quota. These licenses are granted by the State upon certain conditions. This type of License is NOT tied to a DDA requirement. The requirements are:

A) The establishment’s business and operation, as determined by the Commission, is designed to attract and accommodate tourists and visitors to the resort area.

B) The establishment’s primary business is not the sale of alcoholic liquor.

C) The capital investment in real property, leasehold improvement, fixtures and inventory for the premises to be licensed is in excess of \$1,500,000.00.

D) The establishment does not allow or permit casino gambling on the premises.

Further, the Applicant for this type of License must demonstrate that neither an Original Quota nor a County escrowed License is “readily available”. “Readily available” under the Liquor Control Code means, “available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that included, but is not limited to the following:

1. The fair market value of the license, if determinable.
2. The size and scope of the proposed operation.
3. The existence of mandatory contractual restrictions or inclusions attached to the sale of the license. (See MCLA 436.1531 (18)(a).

These licenses are not transferable as to location. The MLCC authorizes fifteen (15) of these licenses per year. The Licenses are NOT easily obtained.




Redevelopment Licenses.

In 2007, the Michigan Legislature passed Public Act 501, which has since been codified as Section 521a(1) of the Michigan Liquor Control Code of 1998, being MCL 436.1521a(1). This Section of the code created a new type of On-Premise License which can be granted by the MLCC in certain circumstances. These licenses are known as Redevelopment Project Area and Development District or Area Licenses. (“Redevelopment Licenses”).

The original law stated that Redevelopment Licenses were only available to “cities”. However, the MLCC’s prior Administration “interpreted” the law to allow Townships and Villages to be approved. Thereafter, the MLCC enforced the law by restricting Redevelopment Licenses to cities. In July of 2014, the law was changed to include Townships and Villages. This section of the law was also amended to require an Applicant for a Redevelopment License to demonstrate to the MLCC that there are no escrowed licenses available for purchase, in the **county**.

The Redevelopment License Law, in Section 1521a(1)(b) enables a municipality to obtain a Class C or On-Premises Licenses for a Downtown Development Authority Area: a Tax Increment Finance Authority, a Corridor Improvement Authority, a Principal Shopping District or a Redevelopment Project Area, as that term is defined in the Law (“Development District”).



Requirements of the Municipality.

A Municipality may only begin the procedure of obtaining a Redevelopment License for a Development District when an Applicant is ready to proceed. The requirements are set forth in Exhibit 2. Essentially, the municipality would be entitled to one (1) Redevelopment License for each \$200,000.00 in public and private investment in real and personal property within the Development District. The municipality must also provide a map of the Development District, and certification which identifies the statutory provision under which the Development District is established.



Requirements of the Applicant.

An applicant may apply for a Redevelopment License for an establishment located in the Development District which meets certain criteria.

Of particular importance is that the Applicant must demonstrate that it has attempted to secure and appropriate an On-Premise escrowed license or quota licenses which may be available in the county. If there are Original Quota Licenses that are not issued, the Applicant would either have to apply for the Original Quota and be denied, or the municipality should pass a resolution that it is not willing to grant its Original Quota, stating the specific reasons for its position.

Applicants for Redevelopment Licenses must pay an enhanced licensing fee to the MLCC of \$20,000.00 and be able to demonstrate that they have spent not less than \$75,000.00 to **rehabilitate** the building over the past five (5) years. Further, the Applicant will have to show that their business will be engaged in dining, entertainment or recreation, is open to the public and has a seating capacity of at least twenty five (25) persons.

Bistro Licensing

Bistro Licensing is a term of art used in several municipalities. This is not a type of license recognized under state law. Rather, cities, such as Birmingham, Royal Oak and Rochester, have adopted “Bistro Ordinances” which basically allow smaller dining establishments to obtain a Class C Liquor License through one of the mechanisms I have outlined above. In most “Bistro Ordinances” outdoor dining is required. In Royal Oak, an applicant for a “Bistro” must apply for a Redevelopment License under state law. In Birmingham, an applicant can use any transferable Class C License as long as the applicant qualifies for a “Bistro License” under Birmingham’s ordinance. Birmingham also requires that a Bistro Licensee obtain a Special Land Use Permit (“SLUP”) as a requisite for being granted a Bistro License.





OFF-PREMISE LICENSES

There are two types of Licenses which enable the Licensee to sell alcohol for consumption “off the premises”. The most well known uses are for grocery or convenience stores. A SDD License means “Specially Designated Distributor”, and an SDM License means a “Specially Designated Merchant”. State law also allows gas stations to be licensed under certain circumstances. An SDD allows for the sale of beer, wine and spirits; and an SDM allows for the sale of beer and wine, only.



SDD LICENSES

SDD licenses are also governed by a quota system in Michigan. For each 3,000 of population, or fraction of 3,000, the MLCC authorizes one (1) SDD.

Half-Mile Rule: The MLCC has rules that have “spacing” restrictions on SDD establishments. Basically, the MLCC rules prohibit SDD establishments to be located within one-half (1/2) mile of another SDD establishment. There are certain circumstances under which the MLCC will waive this general prohibition, such as, the establishments being separated by a four (4) lane thoroughfare.

RESORT SDD LICENSES

There are “Resort SDD Licenses” available, usually ten (10) per year, without regard to the quota or spacing. These licenses are very difficult to obtain.

SDD LICENSES ARE NOW TRANSFERABLE **WITHIN THE COUNTY.**

Effective on December 22, 2013 the Liquor Code was amended to allow escrowed SDD Licenses to be transferred within the County, rather than being confined to the municipality in which the SDD was issued. MCLA 436.1531 (18).



SDM LICENSES

SDM Licenses (beer and wine only) are not governed by the quota system in Michigan. There are no spacing requirements. Only MLCC approval is required; there is no requirement for City Council approval. The use must meet all local zoning requirements.

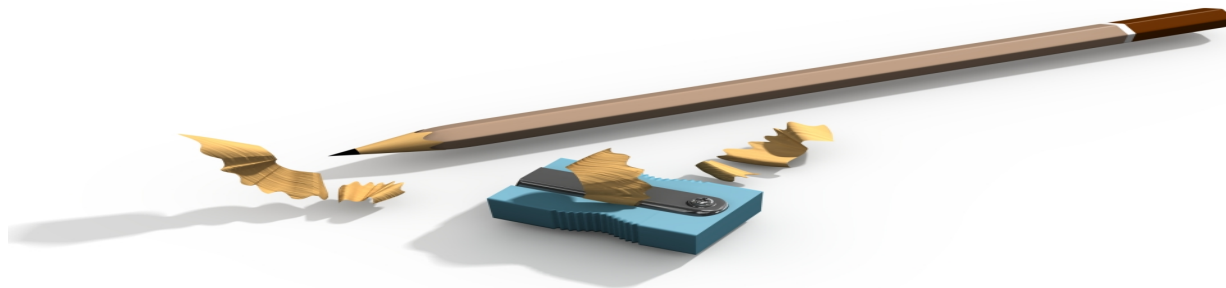


CHURCH AND/OR SCHOOL OBJECTIONS TO LICENSING

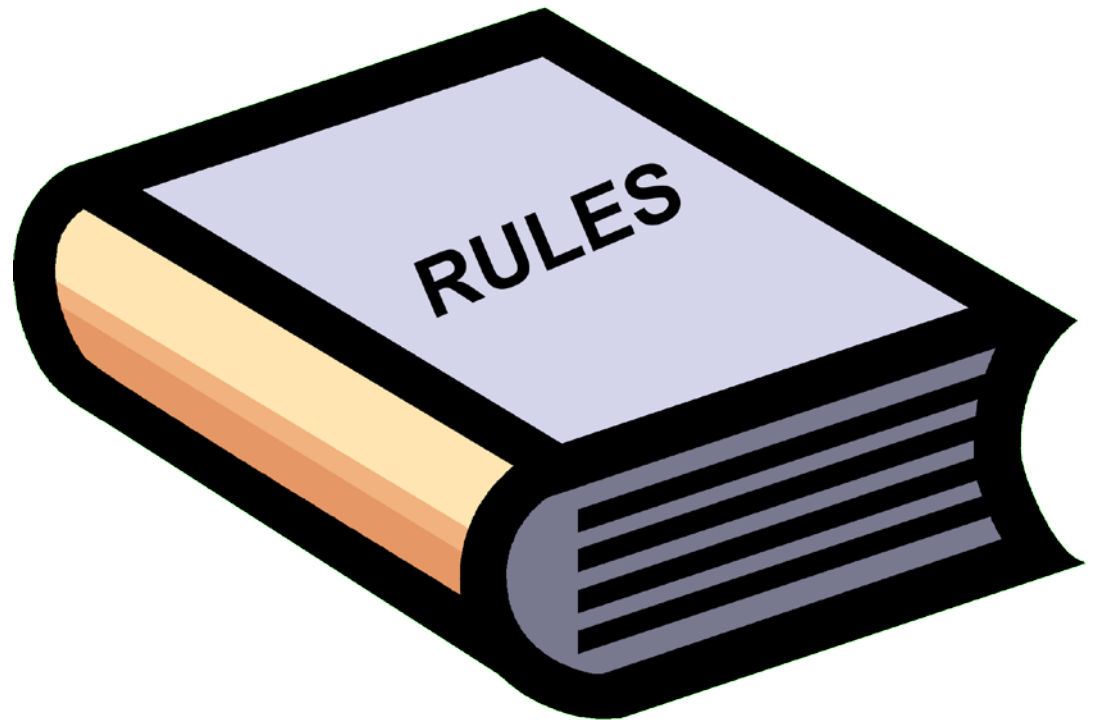


CHURCH – Is defined by the MLCC as a structure set aside primarily for public worship where services are held and a member of the clergy is associated. The structure must be tax exempt under the laws of the state.

SCHOOL – Is defined by the MLCC as buildings used in the education of children in kindergarten through twelfth grade when provided by a public, private, denominational or parochial system. A school does not include university buildings, buildings used primarily for adult education, trade or occupational schools.



MCLA 436.1503 (1)-(5) Sets forth criteria for a church or school to object to the issuance of a Liquor License.



Sec. 503:

- (1) A new application for a license to sell alcoholic beverages at retail, or a request to transfer location of an existing license, shall be denied if the contemplated location is within 500 feet of a church or a school building. The distance between the church or school building and the contemplated location shall be measured along the center line of the street or streets of address between 2 fixed points on the center line determined by projecting straight lines, at right angles to the center line, from the part of the church or school building nearest to the contemplated location and from the part of the contemplated location nearest to the church or school building.
- (2) This section does not apply to specially designated merchants not in conjunction with on the premise licenses.
- (3) This section does not apply to an outstanding license issued before March 1, 1949, for a location within the aforesaid distance or to the renewal or transfer of the outstanding license at that location, or to a resort license in effect during the 1948-1949 licensing year, or to the renewal or transfer of the resort at that location or to an application for a license at that location which has been approved by the commission before March 1, 1949, and licenses so issued, renewed, transferred, or approved shall be conclusively presumed to be valid for purposes of this section only.
- (4) The commission may waive this section in the case of other classes of licenses. If an objection is not filed by the church or school, the commission may issue the license pursuant to this act. If an objection is filed, the commission shall hold a hearing pursuant to rules established by the commission before making a decision on the issuance of the license.
- (5) This section shall not be construed to prevent the transfer of a license to a location farther from a church or school, if the license to be transferred is within the 500-foot radius.

RECENT CHANGES IN THE LAW

CONDITIONAL LICENSES

CATERING PERMITS

CORK & GO / TASTINGS

BYOB

MORE BREW PUBS

FINGERPRINTING PROCEDURES

FOIA REQUESTS

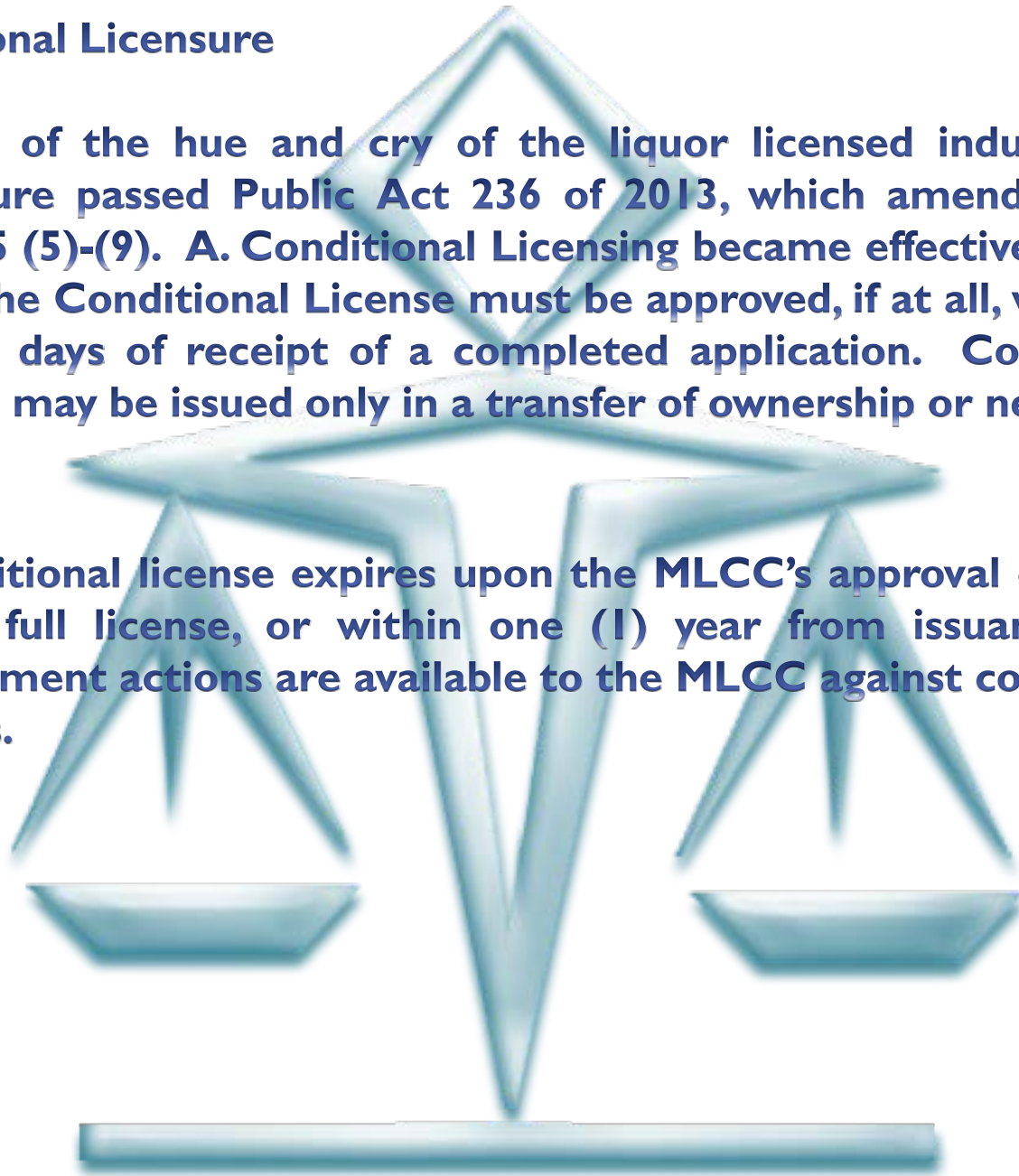
THE MLCC MOVED



Conditional Licensure

Because of the hue and cry of the liquor licensed industry, the Legislature passed Public Act 236 of 2013, which amends MCLA 436.1625 (5)-(9). A. Conditional Licensing became effective May 22, 2014. The Conditional License must be approved, if at all, within 20 business days of receipt of a completed application. Conditional Licenses may be issued only in a transfer of ownership or new SDM.

A conditional license expires upon the MLCC's approval or denial of the full license, or within one (1) year from issuance. All enforcement actions are available to the MLCC against conditional licenses.



MLCC MEMO RE: Conditional Licensing





Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Constitution Hall – 525 W. Allegan, Lansing, MI 48933
Mailing Address: PO Box 30005, Lansing, MI 48909
• toll free (866) 813-0011 • www.michigan.gov/lcc

Conditional Licenses Information: How to Apply and FAQ
(Authorized by MCL 436.1525(5))

- A conditional license may be issued to an applicant who has submitted a completed application for any of the following:
 - 1) A transfer of ownership of or an interest in an existing license at the same location to sell alcoholic liquor for consumption on or off the premises. [MCL 436.1525(3)]
 - 2) A new Specially Designated Merchant (SDM) license. [MCL 436.1525(3)]

A completed application is defined under MCL 436.1525(10) as an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the State of Michigan.

- In addition to a completed application, under MCL 436.1525(5), an applicant requesting a conditional license must provide:
 1. Form LCC-3021: Conditional License – Application to Transfer Ownership or:
Form LCC-3022: Conditional License – New Specially Designated Merchant (SDM) Application
 2. Proof of Financial Responsibility, as required in MCL 436.1801.
 3. Executed Property Document, such as a deed or a lease.
 4. Conditional license fee totaling \$300.00 – A check or money order can be made payable to the State of Michigan or submit via fax using the LCC-3065 (Credit Card Authorization Form).
- Once all of the required documents and fees have been received, the Commission shall have 20 business days to consider the completed application and to issue a conditional license to applicants approved under MCL 436.1525(5), (30 business days for those applicants with multiple locations).
- A conditional license approved by the Commission is non-transferable and non-renewable.

CATERING PERMITS

The Liquor Code now provides for on-premises and off-premises licenses to sell, deliver, and serve beer, wine, and spirits in certain circumstances, see MCLA 436.1547.

Requirements:

- Must be a private event, no fee can be charged to the guests.
- Must have a Food Service Retail Food Establishment License
- Employees must have proof of server training
- Municipality approval no required unless in a municipality ordinance.
- Guidelines and Application are found on the MLCC website.





TASTINGS, AND CORK & GO



WINE TASTING

It is not legal to offer a customer a “free” taste of wine, beer or spirits, for any reason. While there are exceptions to this rule for hotels and manufacturers, Licensees should always remember these words: **THERE IS NO SUCH THING AS FREE ALCOHOL.** [See MCLA 436.2025(1)].

This means that if a restaurant wants to assist the customer in making a wine choice by offering the customer a taste, it must charge the customer for that taste. How much to charge is only governed by the MLCC rule that alcohol cannot be sold to the customer “below cost”. [Rule 436.1055] So, for example, if you took the wholesale cost of a bottle of Chardonnay and divided it by “tastes” or “sips” you would come up with the price. This situation differs, however, from a “wine tasting”. Wine tastings, where various wines are offered for samplings or tastings for a cost, are allowed at on-remise licensed establishments. However, the number of samples offered during a wine tasting event must be specified in any advertisements or on any tickets sold for the event. The Licensee cannot offer unlimited quantities of alcohol [Rule 436.1438 (17)].

CORK & GO

“Cork & Go” wine law allows a customer who has purchased a meal, and a bottle of wine, to remove the partially consumed bottle from the premises. It requires the cork to be reinserted into the bottle so that it is flush with the lip of the bottle. [MCLA 436.2021 (3)] The customer should be advised that the bottle must be transported in the trunk of their vehicle, or in a special carrier, and not accessible to the occupants of the vehicle. This rule applies to wine only, not beer or spirits. The on-premise licensee does not need an additional permit, such as an SDM, to allow “Cork & Go”.



BYOB

On March 14, 2014, the “Bring Your Own Wine” provision of the Liquor Code took effect MCLA 436.2021(3). A restaurant may, but is not required to, allow customers to bring in their own wine, under the following circumstances:

- 1) “Bring Your Own” applies only to wine, not beer or spirits.
- 2) The restaurateur may determine whether or not to allow a customer to bring his or her own wine into the establishment.
- 3) The customer’s wine must be in its original, sealed container.
- 4) The customer must be 21 years of age.
- 5) 5) The wine brought in by the customer must be produced by a wine maker, a small wine maker, or an –out-of-state entity which is the equivalent of a wine make or small wine maker.
- 6) The restaurant cannot allow the customer to remove a partially consumed bottle of wine from the establishment, unless the cork is reinserted into the bottle so that it is flush with the lip of the bottle.
- 7) The restaurant may charge the customer a “corkage fee” for each bottle of wine opened by the restaurant’s employee. The amount of the corkage fee is the decision of the restaurant.
- 8) There is no additional permit required by the Commission to allow customers to bring in their own wine.



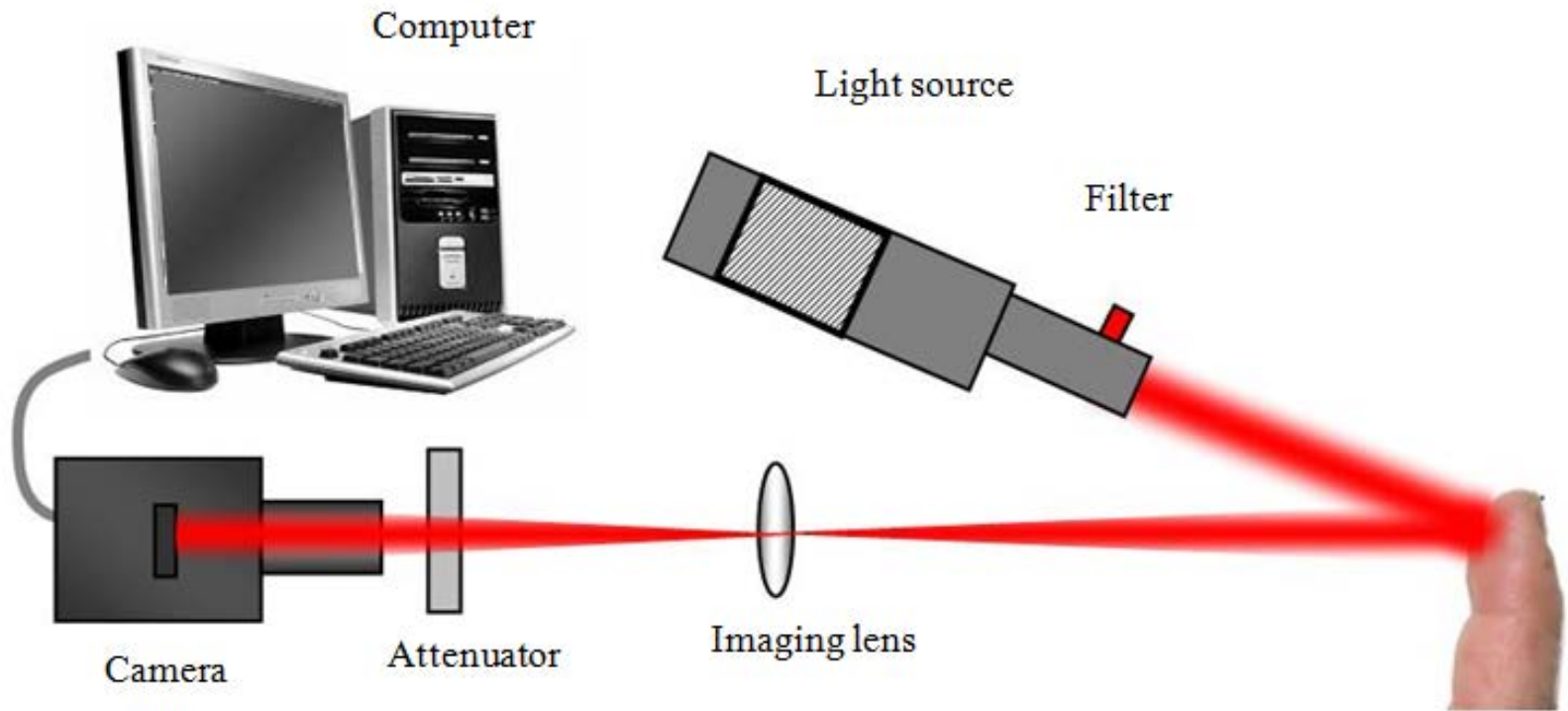
More: Brew Pubs

Brew Pubs are defined as meaning a license issued in conjunction with a Class C, Tavern, Class A Hotel, or Class B Hotel license that authorizes the person licensed with the Class C, Tavern, Class A Hotel, or Class B Hotel to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407.

On March 25, 2014 the Liquor Code was amended to increase the number of brew pubs a particular licensee can own from 3 to 5, and the allowable production of barrels was increased to 18,000 per calendar year. MCLA 436.603(18).



NEW FINGERPRINTING PROCEDURES



BULLETIN No. 2014-08

DATE: December 9, 2014

TO: All Liquor License Applicants

FROM: Michigan Liquor Control Commission

SUBJECT: Change in Fingerprint Processing

This is an important notice concerning changes to the fingerprint process for those applicants that are required to submit fingerprints as part of their application for a liquor license.

If an applicant is required to submit fingerprints, the applicant shall have the fingerprints taken by a local law enforcement agency, the Michigan Department of State Police, or any other person qualified to take fingerprints, such as Identogo®, as determined by the Michigan Department of State Police.

The Michigan Department of State Police has contracted with Identogo® to provide fingerprint-based background checks for licensing purposes as authorized by law. When your fingerprints are taken, an Identogo® technician will perform a scan of your fingerprints and submit the data electronically to the Michigan Department of State Police who will send the record directly to the Liquor Control Commission for review and consideration. Information about fees and scheduling your fingerprint appointment with Identogo® can be found at www.identogo.com or by calling (866) 226-2952.

Effective January 1, 2015, the Commission will no longer utilize paper fingerprint cards and will no longer accept those paper fingerprint cards as a part of the application process. The Commission will no longer collect the fingerprint fee since payment will now be made directly to Identogo®.

Applicants for a Michigan liquor license must take the Livescan Fingerprint Background Request form to their fingerprint appointment. This form and instructions can be found on the Commission's website at www.michigan.gov/lcc.



Freedom of Information Act Request Form

Contact Name:

Street Address:

City, State, Zip Code: MI

Phone No: - -

Fax No: - -

E-mail Address:

Confirm E-mail Address:

Relationship to Licensee:

Describe the information you are looking for in as much detail as possible:

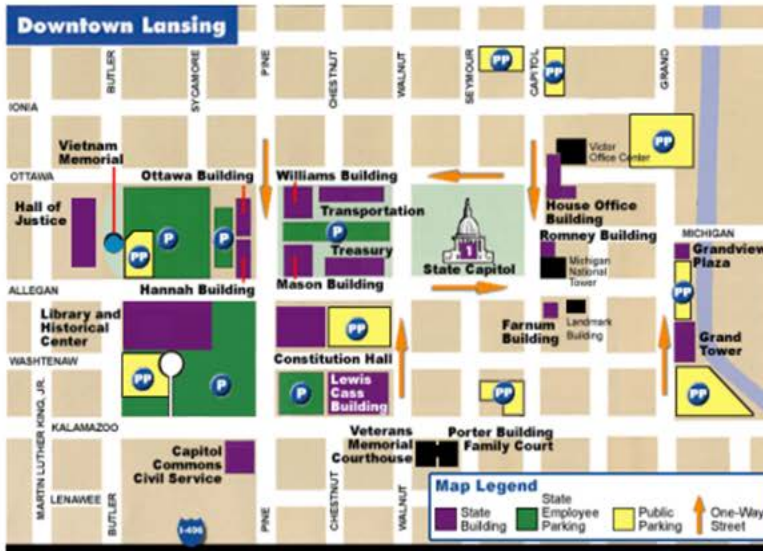
Signature:

Date:



Michigan Liquor Control Commission

Constitution Hall
 525 W. Allegan St.
 Lansing, MI 48933
 866-813-0011
 mlccinfo2@michigan.gov



Exit I-496 at M.L. King Blvd. Turn onto northbound M.L. King Blvd. Turn right onto Allegan St. Constitution Hall will be on your right (between Pine Street and Walnut Street). Park in the lot at the front of the building (east side). This lot is operated by Ellis Parking and is accessible from Allegan and Washtenaw Streets.

All visitors must enter the building through the east doors and check in at the security desk.

