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Michigan Liquor Control Commission Club Licensee Information



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CLUB LICENSE

TABLE OF CONTENTS

Club License	1
When is a liquor license required?	1
Do we need a liquor license?	1
Do we qualify?	2
Qualifications	2
Police powers?	3
Additional requirements for a Club license application	3
Sale of alcoholic liquor to bona-fide members only!	3
What is a bona-fide member?	4
Special License	4
Alcohol Samples	5
Auctions	5
Children in the bar area	5
Minimum age to sell or serve alcoholic beverages	6
Sale of alcoholic beverages to minors	6
Exceptions to cash sales	6
Hours and days of operation	6
Premise being occupied	7
Extended hours or Specific Purpose Permit	7
Removing alcoholic liquor from the building and outdoor service area	7
Contests	8
Gambling and devices	9
Club and SDM license renewals and membership lists	10
Add Bar permit – not required!	10
What records do we need to keep?	10
Club Audits	11

CLUB LICENSE

This is a guide for club licensees. This brochure attempts to answer common questions regarding the liquor license and the licensed establishment, to whom and how alcoholic liquor beverages may be served and general business topics.

A comprehensive response to most questions may be found in the *Michigan Liquor Control Code, Administrative Rules and Related Laws governing the sale and manufacture of alcoholic beverages. This information is reprinted from The Michigan Compiled Laws (MCL) April 2011 (includes updates through December 2019).*

The Code and Administrative Rules may be found by linking onto the website of the Michigan Liquor Control Commission at www.michigan.gov/lcc. A hard copy of the liquor control commission's Code and Rules may be obtained from the Michigan Department of Licensing and Regulatory Affairs, Liquor Control Commission, P.O. Box 30005, 525 W. Allegan, Lansing, MI 48933 at a cost of \$15.00.

When is a liquor license required?

The sale, delivery and importation of alcoholic liquor are activities in Michigan that are limited¹ to the commission, the commission's authorized agent or distributor, those licensed by the commission, or by prior written order of the commission (MCL 436.1203.1).

Do we need a liquor license?

It is possible to consume alcoholic liquor in an unlicensed establishment, but there are two basic restrictions: if the drinking of alcoholic liquor is for consideration or it is a commercial establishment that sells food². Consideration is defined as:

- any fee, cover charge, ticket purchase;
- the storage of alcoholic liquor;
- the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks;
- the purchasing of any service or item, or combination of service or item; and,
- furnishing glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food.³

What this means is alcoholic liquor is not allowed in an unlicensed area where there is a form of consideration due, or where food is prepared on the premises and sold to the patrons.

On the other hand, alcoholic liquor is permitted in an unlicensed⁴ hall that is rented out by the club to a tenant. For example, the club may have a hall it rents out to people who wish to use it for a reception for wedding parties. The tenant is usually the host of the event. It is not open to the public. Attendance is only by invitation or reservation (436.2014.3). The host provides the food and alcoholic liquor to the guests at no cost. Guests arrive and pay no form of consideration.

¹ Except as provided in Sections 203 and 301 of the Liquor Control Code.

² Does not apply to any hotel or any licensee under this act (MCL 436.2021.3).

³ MCL 436.1913

⁴ The licensee is prohibited from leasing, selling or transferring possession (renting) of a portion of the licensed premises without the prior written approval of the commission (Rule 436.1023.3).

alcoholic liquor must remain inside. Sealed containers of beer and wine may only be removed if the club sold that beverage to a member under their SDM (beer and wine take-out) license.

The commission may approve your request for an outdoor service area. There are two types, permanent and temporary. The permanent one stays with your license for as long as the club intends, except by order of the commission. Or, the commission may issue up to twelve temporary outdoor service permits per calendar (Rule 436.1419).

If the outdoor service area is approved, *the club licensee shall not sell, or allow the consumption of, alcoholic liquor outdoor, except in the defined area.*²⁰

Contests

Texas Hold'em: To award prizes²¹ or not; that is the question.

With an entertainment permit issued by the Liquor Control Commission, clubs may allow Texas Hold'em if the prize is limited to a plaque or trophy. For other types of prizes, approval from the Michigan Gaming Control Board is necessary.

The Charitable Gaming Division of the Bureau of Lottery approved, by Directive No. 4.03.01 (May 14, 2004), Tournament Texas Hold'em as a millionaire party card game. Non-profit organizations may apply and obtain a Millionaire Party license and conduct Texas Hold'em on the club licensed premises. A specific date and location is required.

Further information is available by calling the Michigan Gaming Control Board at 517-335-5780.

You will also need to obtain a Special License if you want to allow the general public to purchase and consume alcoholic beverages during this event.

Euchre:

Euchre contests are allowed without commission approval if the following conditions are met:

- An entry fee is permissible.
- No ante/stake is permitted by contestants.
- Prizes may be awarded by the liquor licensee only.
- The prize²² does not exceed \$250 per business day unless prior commission approval has been granted.
- The liquor licensee must have an entertainment permit issued to them by the commission.

Pool and dart tournaments:

The following guidelines are provided:

- An entertainment permit is not required.
- The prize cannot exceed \$250 per business day unless prior commission approval has been granted.
- Entry fees are allowed.

²⁰ Rule 436.1419.2.

²¹ Cash, points or other item of value.

²² Rule 436.1435.1.

Other points about contests:

A licensee shall not participate in or sponsor any contest that requires the use or consumption of alcoholic liquor or features alcoholic liquor as a prize in connection with a contest (Rule 436.1019); nor shall an on-premises licensee allow a contest or tournament of any kind in which the sale, use, or consumption of alcoholic liquor is a necessary part of the contest or tournament or in which alcoholic liquor is given as a prize to the participants of the contest or tournament (Rule 436.1435.2). But, an unopened bottle of alcoholic liquor having a value of less than \$200 may be offered and awarded pursuant to a lawful fund raising event (MCL 436.2015).

There shall not be advertising of alcoholic liquor connected with offering a prize or award on the completion of a contest, except upon prior written approval of the commission (Rule 436.1321.1).

A club licensee shall not allow contests in which the licensee or any other person gives away anything of value over \$250 per day except upon written approval of the commission (Rule 436.1435.1).

An on-premises licensee shall not allow...contests...unless the licensee has applied for and been granted an entertainment permit by the commission (MCL 436.1916.1).

Gambling and devices

Gambling is either legal or not. If the club licensee allows illegal gambling or gambling devices on the liquor licensed premises, it would be contrary to MCL 436.1901.2.

Illegal Gambling

MCL 436.1901.2 prohibits liquor licensees from allowing unlawful gambling on the licensed premises, and prohibits the licensee from allowing any gambling devices on the licensed premises that are prohibited by Michigan statutes.

In general, gambling requires proof of three elements: consideration, chance and reward.

- Consideration: A cost to enter and participate in the activity. It may include the requirement of a participant to physically go to a location to enter or participate.
- Chance: The winner is selected by random and not a result of skill.
- Reward: The winner receives a prize, which can be anything of value.

Internet Gambling

Internet gambling on liquor licensed premises is illegal per 1999 PA 235; MCL 750.145d. It is a violation of Michigan criminal law to use a computer, computer network, computer program or computer system to commit or solicit another person to commit illegal gambling as defined in the Michigan penal code and by the Michigan Gaming Control Act. The act is violated if the communications originates or terminates in this state.

Michigan Lottery Bureau and Michigan Gaming Control Board

The Michigan Lottery Bureau sanctions many forms of gambling at licensed club facilities (Bingo, raffles, pull tabs, etc.). They are located at 101 E. Hillsdale, P.O. Box 30023, Lansing, MI 48909. The Charitable Gaming Division may be reached at 517-335-5600.

The Michigan Gaming Control Board sanctions many forms of gambling (Casinos, Millionaire Parties, horse racing, etc.). They are located at 3062 W. Grand Blvd., Suite L-700, Detroit, MI 48202-6062. The Michigan Gaming Control Board may be reached at 517-456-4100.

Raffles

A licensed club is excused from the requirements of obtaining a small raffle license from the Lottery Bureau if the club is sponsoring a single gathering²³, conducts a raffle with no pre-selling of tickets, the prize is awarded during that gathering, and the total aggregate retail value of the prize for that day is \$100 or less.

A club licensee may offer and award unopened alcoholic liquor having a value of less than \$200 to a person 21 years of age or older in a drawing or raffle or as a door prize, pursuant to a lawful fund raising activity. The alcoholic liquor awarded shall not be consumed on the premises at which it is awarded (MCL 436.2015.1). The club may not award the alcoholic liquor to a person who is intoxicated (MCL 436.2015.3).

Club and SDM License Renewals and Membership Lists

The club liquor license is valid from May 1 through April 30 of each year. An application for renewal of the club liquor license for the licensing year is completed and issued by the commission if there are no holds or other reasons not to renew the club liquor license. The license fee is:

- \$300 for clubs having 150 or fewer duly accredited members and \$1.00 for each additional member.
- A membership list is to be submitted for the sole purpose of determining the correct license fees to be paid.
- The membership list shall be the accredited list of members as determined by a sworn affidavit 30 days before the closing of the licensing year.
- The membership list is not required by clubs that pay the maximum fee of \$750 per licensed location.

An SDM²⁴ license fee is \$100. (MCL 436.1525.1.j.p).

Add Bar permit – not required!

There may be more than one point of sale of alcoholic liquor (beer, wine and spirits) in a club licensed establishment without the necessity of an add-bar permit per Rule 436.1023 (2)(c). This means that a club licensee may have two or more separate bars operating within the licensed establishment at the same time without penalty.

What Records Do We Need To Keep?

Once the Club license has been issued, there are records of the licensed business that must be maintained for a period of four years²⁵. The licensed club must maintain accurate records of alcoholic liquor (beer, wine and spirits) purchases and sales. It must maintain records sufficient to determine ownership of the licensed business and to whom the profits and losses accrue.

²³ Single Gathering means one scheduled assembly or meeting with a specific beginning and ending time.

The purpose of the meeting shall not be solely for conducting a raffle. Single gathering does not include regular operating hours of a club.

²⁴ Specially Designated Merchant of beer and wine retail sales to bona-fide members.

²⁵ Rule 436.1007.

Other records that the club licensee may wish to maintain are its' liquor license application documents, inclusive of a certified copy of the constitution, charter and by-laws of the club; the affidavit certifying that no racial disqualifications for membership exist; and, minutes of meetings being recorded in English.²⁶

Club Audits

During a club audit by an investigator of the Liquor Control Commission, records to be reviewed are frequently the club minutes, membership records, financial records, corporate or limited liability company records (if applicable), and any other records to verify that the club is self-supporting without the sale of alcoholic beverages and that a true ownership exists in the name of the licensed club for the business, business operating (checking) account(s), and the licensed real estate.

The number of members should reflect the number the club reported at license renewal plus any other members added since that time. Credit is not given for members who have left the club for any reason. It should be inclusive of all members (also auxiliary, associate, honorary, etc.) that have bar privileges. Those members who have bar privileges must be able to vote, either individually or as a group. The club must maintain records of their members that have bar privileges so that the total and accurate number may be established.

To be self-supporting, the club must be able to pay the lease or mortgage, taxes, insurance, repairs and any mortgage interest for the licensed premises without relying upon the sale of alcoholic liquor.

An inspection²⁷ of the licensed premises will also take place during the club audit to verify that the club is in compliance to the Liquor Control Commission Act and Regulations.

This brochure was prepared²⁸ to address the most frequently asked questions about club licenses. Additional information may be available from the 1998 Liquor Control Code and Regulations; and questions may be directed to the MLCC enforcement division office closest to your location: Southfield (313-456-1170); Lansing (517-284-6330); Grand Rapids (616-447-2647); and, Escanaba (906-786-5553).

²⁶ Rule 436.1127.

²⁷ Pursuant to MCL 436.1217.2.3 and Rule 436.1011.4.

²⁸ Compiled by the Lansing district supervisors of the MLCC enforcement division.