

MICHIGAN LIQUOR CONTROL CODE OF 1998 (EXCERPT)
Act 58 of 1998

436.1903 Suspension or revocation of license; violation of act or rules; penalty; disposition; administrative fine; hearing; procedure; fee; right of appeal; institution of criminal prosecutions; defense; rules; appointment of agents to hear violation cases; authority and responsibility; ineligibility of designated agent for appointment to commission.

Sec. 903.

(1) The commission or any commissioner or duly authorized agent of the commission designated by the chairperson of the commission, on notice and proper hearing, may suspend or revoke any license on a violation of this act or any of the rules promulgated by the commission under this act. The commission or any commissioner or authorized agent of the commission designated by the chairperson of the commission, may assess a penalty of not more than \$300.00 for each violation of this act or rules promulgated under this act, or not more than \$1,000.00 for each violation of section 801(1), in addition to or instead of revocation or suspension of the license, which penalty must be paid to the commission and deposited with the state treasurer and must be credited to the general fund of the state. The commission shall hold a hearing and order the suspension or revocation of a license if the licensee has been found liable for 3 or more separate violations of section 801(1) which violations occurred on different occasions within a 24-month period unless the violations for the sale, furnishing, or giving alcoholic liquor to a minor were discovered by the licensee and disclosed to an appropriate law enforcement agency immediately on discovery. A retail licensee who sells, offers to sell, accepts, furnishes, possesses, or allows the consumption of spirits in violation of section 901(6) is subject to an administrative fine of not more than \$2,500.00 per occurrence and the following license sanctions after notice and opportunity for an administrative hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328:

- (a) For a first violation, a license revocation or suspension for between 1 and 30 days.
- (b) For a second violation, a license revocation or suspension for between 31 and 90 days.
- (c) For a third or subsequent violation, revocation of the license.

(2) The commission shall provide a procedure by which a licensee who is aggrieved by any penalty imposed under subsection (1) and any suspension or revocation of a license ordered by the commission, a commissioner, or a duly authorized agent of the commission may request a hearing for the purpose of presenting any facts or reasons to the commission as to why the penalty, suspension, or revocation should be modified or rescinded. The request must be in writing and accompanied by a fee of \$25.00. The commission, after reviewing the record made before a commissioner or an authorized agent of the commission, may allow or refuse to allow the hearing in accordance with the commission's rules. The right to a hearing provided in this subsection, however, must not be interpreted by a court as curtailing, removing, or annulling the right of the commission to suspend or revoke licenses as provided for in this act. A licensee does not have a right of appeal from the final determination of the commission, except by leave of the circuit court. Notice of the order of suspension or revocation of a license or of the assessment of a penalty, or both, must be given in the manner prescribed by the commission. The suspension or revocation of a license or the assessment of a penalty, or both, by the commission or an authorized agent of the commission does not prohibit the institution of a criminal prosecution for a violation of this act. The institution of a criminal prosecution for a violation of this act or the acquittal or conviction of a person for a violation of this act does not prevent the suspension or revocation of a license or the assessment of a penalty, or both, by the commission. In a hearing for the suspension or revocation of a license issued under this act, proof that the defendant licensee or an agent or employee of the licensee demanded and was shown, before furnishing any alcoholic liquor to a minor, a motor vehicle operator or chauffeur license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of majority and identity of the person, may be offered as evidence in a defense to a proceeding for the suspension or revocation of a license issued under this act. A licensee who has reason to believe that a minor has used fraudulent identification to purchase alcoholic liquor in violation of section 703 shall file a police report concerning the violation with a local law enforcement agency and shall also present the alleged fraudulent identification to the local law enforcement agency at the time of filing the report if the identification is in the possession of the licensee. The commission may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, regarding the use by licensees of equipment designed to detect altered or forged driver licenses, state identification cards, and other forms of identification.

(3) In addition to the hearing commissioners provided for in section 209, the chairperson of the commission may designate not more than 2 authorized agents to hear violation cases. A person appointed under this subsection must be a member in good standing of the State Bar of Michigan.

(4) An authorized agent who has been designated by the chairperson under subsection (3) has, in the hearing of violation cases, the same authority and responsibility as does a hearing commissioner under this act and the rules promulgated under this act.

(5) An authorized agent who has been designated by the chairperson under subsection (3) is ineligible for appointment to the commission for a period of 1 year after the person ceases to serve as an authorized agent.

History: 1998, Act 58, Imd. Eff. Apr. 14, 1998 ;-- Am. 1998, Act 416, Imd. Eff. Dec. 21, 1998 ;-- Am. 2000, Act 431, Imd. Eff. Jan. 9, 2001 ;-- Am. 2010, Act 175, Imd. Eff. Sept. 30, 2010 ;-- Am. 2019, Act 131, Imd. Eff. Nov. 21, 2019