



Michigan Department of Licensing & Regulatory Affairs
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
525 W. Allegan Lansing, MI 48933
P.O. Box 30005 Lansing, MI 48909

Michigan Outstate Seller of Wine Requirements and General Information

An Outstate Seller of Wine (“OSSW”) license:

- License issued to wine supplier by the Michigan Liquor Control Commission (“Commission”) to ship wine into Michigan and sell to Michigan wholesalers.
- Must be located in the United States (may be located in Michigan).
- Must be a holder of an Importer’s, Producer’s and/or Wholesaler’s Basic Permit issued by the Alcohol and Tobacco Tax and Trade Bureau (“TTB”). If located in Michigan, the Federal Basic Permit does not need to be submitted with the initial application. Issuance of this Permit by TTB will be verified prior to the Commission issuing a license.
- May sell and deliver **only** to Michigan wholesalers.
- No direct shipments allowed from an OSSW to Michigan retailers or Michigan consumers.
- Must enter into territory agreements with their wholesalers.
- Responsible for registering all brands with the Commission.
- Responsible for payment of Michigan wine excise tax.
- \$300 annual license fee (licensing year is from May 1st to April 30th each year)

An OSSW license may be issued to any of the following entities under administrative rule R 436.1705 and the Liquor Control Code:

- BOTTLER - A person located outside of this state, but in the United States, who bottles wine manufactured by another person. This person shall have a certificate or affidavit of identity from the manufacturer.
- BULK & SACRAMENTAL - A person located outside of this state, but in the United States, who ships and sells bulk wine to licensed Michigan manufacturers for blending, rectifying, or non-beverage purposes or bottled wine directly to a minister, priest, or rabbi for sacramental purposes. Bulk wine shipments to Michigan manufacturers must have a release from the Commission prior to shipment into Michigan.
- DOMESTIC - A manufacturer located outside of this state, but in the United States, that produces and bottles its own wine.
- EXCLUSIVE SALES AGENT (“ESA”) - A person located in the United States who is designated by the manufacturer of wine as its sole and exclusive sales agent in the United States.
- IMPORT - A person located in the United States who imports foreign wine and sells that foreign wine in this state. The actual importer must obtain the OSSW license.
- PURCHASER - A person located in the United States who purchases wine from a manufacturer of wine or brand owner located outside of this state, but in the United States, if the total amount of wine shipped into this state manufactured by that outstate manufacturer of wine or brand owner is 150,000 liters or less per calendar year. The OSSW licensee shall be responsible for the quality of wine shipped into and sold in this state. A person who obtains an OSSW license pursuant to this subdivision, or who imports wine pursuant to this subdivision, and holds a wholesale license shall pay cash at the time of purchase for importation.

How To Apply For A License:

Applicants located in Michigan: please refer to the “Manufacturers & Wholesale License Application Process” information sheet for applicable forms and required documents.

Applicants located outside of Michigan: please refer to “Checklist for Michigan Non-Retail License” information sheet for applicable forms and required documents.

All forms are available on our website at: www.michigan.gov/lcc ---> Commission Forms ---> Manufacturers & Wholesalers.

Licensing Requirements:

Federal Basic Permit:

Receipt of a Federal Basic Permit issued by the Alcohol and Tobacco Tax and Trade Bureau (“TTB”) is required prior to the issuance of the license . Submit applicable permit listed below.

- Administrative rule R 436.1705(1)

- Importer of foreign wine – “Importer’s Basic Permit”
- Shipping bulk wine for blending purposes - “Wine Producer’s & Blender’s” Basic Permit
- Sacramental wine to churches - “Wine Producer’s & Blender’s” Basic Permit or “Wholesaler’s” Basic Permit
- Bottler - Certificate or affidavit of identity from the manufacturer and “Tax Paid Bottling” Basic Permit or “Bonded Winery” Basic Permit
- Domestic manufacturer - “Wine Producer’s and Blender’s” Basic Permit
- Exclusive Sales Agent “ESA” - (Domestic Wines Only) – “Wholesaler’s” Basic Permit issued to applicant ; “Wine Producer’s and Blender’s” Basic Permit for each winery represented as an ESA; a list of brands to be sold in Michigan; and a letter from each winery represented as an ESA, stating that applicant is the exclusive sales agent in the U.S. for those specific brands
- Purchaser of wine (Domestic Wine Only) - Copy of applicant’s “Wholesaler’s Basic Permit; Copy of “Wine Producer’s and Blender’s” Basic Permit from each winery that manufactures the wine; a letter from the manufacturer stating who is the brand owner if the wine isn’t owned by the manufacturer. An OSSW licensed under the *Purchaser of Wine* rule is limited to shipping no more than 150,000 liters per calendar year from each manufacturer or brand owner. This section does not apply to imported products.

For Federal Basic Permit info contact: Alcohol and Tobacco Tax and Trade Bureau
550 Main St. Room 8002
Cincinnati, OH 45202
(513) 684-3337
www.ttb.gov

License Fees:

Initial license and annual renewal fee for an OSSW license is \$300.00. Licenses are renewed annually on May 1. License fee is not be prorated for part-year licensure and is payable at the time of initial application.

- MCL 436.1525

General Information:

Manufacturing & Labeling:

Wine must be manufactured and labeled in accordance with federal wine regulations published in

the Code of Federal Regulations (CFR), Title 27, Part 4 and Part 24. Contact TTB for details.

- Administrative rules R 436.1707, R 436.1708

Label Registration:

Wine products must have all labels approved by the Commission before the wine is sold in Michigan. To register a wine product, you may either mail a copy of the Certificate of Label Approval (COLA), (for wine and cider containing less than 7% alcohol by volume, send in a loose label only) or; you may register your wine products via our registration on-line site. A password to access the on-line site will be provided upon issuance of the license. There is no fee for Michigan label registration.

- Administrative rule R 436.1719

Mandatory Label Information (Pursuant to TTB Regulations):

- Brand name listed.
- Class, type or, in lieu of, a truthful and adequate statement of composition shall appear on the brand label of the product.
- Name and address of bottler or packer and place (city/state) where bottled. Name must be preceded by "Bottled by" or "Packed by".
- Alcohol content must be listed. By definition, wine may contain ½ of 1% or more alcohol by volume but not more than 21% alcohol by volume. Table wine with alcoholic content of 11%-14% is not required to list the actual alcohol content. Listing "table wine" is adequate.
- Net contents.

For Federal Labeling information contact:

Alcohol and Tobacco Tax and Trade Bureau
Alcohol Labeling & Formulation
650 Massachusetts Ave., N.W.
Washington, DC 20226
(866) 927-2533
www.ttb.gov

Container Deposits:

Beer, mixed wine drink (wine coolers) & mixed spirit drink (spirit coolers) sold in containers of one (1) gallon or less must comply with the Beverage Container Act (The Initiated Law of 1976) by requiring a deposit of not less than 10 cents per container when sold to consumers. Containers must be clearly labeled with the name of this state and the deposit amount. "MI" or "MICH" are acceptable abbreviations for Michigan. The wholesaler who sells the returnable containers to their retail customers initiates the container deposit.

- MCL 445.571 – MCL 445.576

Wholesaler Sales Territories:

Outstate Sellers of Wine must provide each of their wholesalers with a written territory agreement specifying the brand or brands of wine and the territory in which the wholesaler shall have distribution rights. The sales territory is not determined by the Commission but is agreed upon by the wholesaler and the manufacturer or OSSW. The territory agreement should be in writing and the wholesaler must be provided with a copy of the agreement. Copies of territory agreements do not need to be filed with the Commission. With certain exceptions, a brand extension is not considered a new or different brand and must be assigned to the wholesaler that was granted the sales territory for the brand from which the brand extension resulted.

Effective June 1, 2010, Michigan statute prohibits a supplier or master distributor from assigning a specific brand or brands of wine to more than one wholesaler in the same sales territory. However, a supplier or master distributor may continue an agreement that was in effect on June 1, 2010, which assigned the distribution rights to more than one wholesaler for a specific brand of wine in the same sales territory.

- Wine - MCL 436.1305 & MCL 436.1307

Cash Sales:

All sales and purchases of alcoholic beverages shall be for cash only. Wholesalers are prohibited from offering credit terms to retail licensees. Payment by wholesalers to suppliers must be forwarded upon acceptance of delivery and verification of the shipment of wine. Payment may be made prior to shipment but is not mandatory. Payment may also be made by EFT no later than the next business day after receipt of shipment.

- MCL 436.2013

Outstate Sellers Monthly Report:

The wholesaler assigned to distribute the wine products manufactured outside of Michigan is responsible for the collection, reporting, and payment of wine excise tax on a monthly basis.

The OSSW must submit no later than the 15th of each month, an Outstate Sellers Monthly Report, for wine shipped into Michigan during the preceding calendar month. This report must be filed whether any wine shipments were made the previous month or not. If no shipments were made, please indicate "no shipments" on the report.

A copy of each corresponding invoice for wine shipments or a computer generated report listed by wholesaler, for all wine shipments into Michigan for each month, must also be submitted.

- Wine 16% or less alcohol by volume - \$.135 per liter (13 ½ cents per liter).
- Wine over 16% alcohol by volume - \$.20 per liter (20 cents per liter)

There are no taxes due for Bulk or Sacramental Wine shipments. Sacramental wine licensees must submit a quarterly report of products shipped during that period. Bulk wine shipments must receive a Release from the Commission.

- MCL 436.1301, MCL 436.1409, Administrative rule R 436.1725

For questions relating to excise taxes and where to find tax forms, please contact our Financial Management Division at (517) 284-6260.

Wine Invoices:

An OSSW must provide each wholesaler with two (2) copies of each invoice at the time of each sale and delivery of wine.

- Administrative rule R 436.1720

Delivery to Wholesaler Or Warehouse Only:

An OSSW may ship and deliver wine only to the licensed premises of a Michigan wholesaler or to the licensed premises of a Michigan warehouse. Wine may not be delivered from an OSSW to a Michigan retail licensee or a Michigan consumer.

- Administrative rule R 436.1719

Direct Shipping/Deliveries to Consumers:

An OSSW may also apply for a Direct Shipper license. A Direct Shipper license is required for in-state and out-of-state wineries to ship domestic wine directly to Michigan consumers. You must be the manufacturer of the wine to be eligible for this license. This license does not allow direct shipment of imported wine products. The Direct Shipper license costs \$100.00 annually (renewable May 1) and allows total annual shipment to Michigan consumers of 13,500 liters (1,500 9-liter cases). A Direct Shipper must pay the Michigan excise tax (quarterly) and Michigan sales tax. The age of the person placing the order must be verified by obtaining a copy of a photo identification issued by a state or the federal government of the person placing the order, or by utilizing an identification service approved by the Commission. The Direct Shipper must record and maintain records of the name, address, date of birth and telephone number of the person placing the order on the order form or other verifiable record of a type approved by the Commission and provide a duplicate to the Commission. The Direct Shipper must stamp, print, or label on the outside of the shipping container that the package "Contains Alcohol. Must be delivered to a person 21 years of age or older." The Direct Shipper must place a label on the top

panel of the shipping container containing the direct shipper license number, the order number, the name and address of the individual placing the order, and the name of the designated recipient if different from the name of the individual placing the order. The person delivering the alcohol shall verify the person accepting delivery is of legal age.

- MCL 436.1203(13)(h)

Interest In Another License

Michigan statute strictly prohibits an Outstate Seller of Wine from holding any interest, directly or indirectly, in a wholesale or retail license. Examples of prohibited interests include: stock ownership, leasing real estate to/from a wholesale or retail licensee; interlocking officers or directors between licensees; financial interest such as a moneylender with a wholesale or retail licensee. An Outstate Seller licensee **may** hold interest in another licensed supplier under MCL 436.1603.

- MCL 436.1603(8)(13)

Other Supplier licenses

An OSSW may obtain other supplier/manufacturing licenses including an Outstate Seller of Beer, an Outstate Seller of Mixed Spirit Drink; Michigan manufacturing licenses such as a Brandy Manufacturer, Micro Brewer/Brewer, Small Wine Maker, Manufacturer of Spirits, Manufacturer of Mixed Spirit Drink or a Small Distiller license.

- MCL 436.1111(9), MCL 436.1109 (6), MCL 436.1113(9)

Beer and Wine Sampling Permit

An OSSW may obtain a Beer and Wine Sampling Permit which allows beer and wine tastings to be conducted on licensed off-premises accounts that hold a Specially Designated Merchant (SDM) license. There is a one time \$70.00 fee for this permit. Upon issuance of this permit notification of sampling events must be received at least 10 days prior to the event and all employees or licensed agents conducting the sampling event must have successfully completed a server training program approved by the MLCC.

- MCL 436.1537

Salesperson License:

Any person employed or representing an alcoholic beverage supplier or wholesaler, who sells, delivers, promotes or otherwise assists in the sale, delivery or promotion of alcoholic liquor in this state is required to hold a Salesperson license issued by the Commission. Salesperson's must be 18 years of age or older.

- MCL 436.1502

Purchasing Drinks For Consumers

A licensed Salesperson of a supplier of wine, for promotional purposes, may purchase one (1) drink for each customer of an on-premises retail licensee only. The drink shall be purchased from the on-premises licensee and shall be of a brand represented by the salesperson.

- Administrative rule R 436.1865

Samples:

OSSW and wholesalers are allowed to sample their products with on-premises or off-premises retail licensees and the retailer's employees. Sample tastings may not be offered to consumers. All containers used to sample products with retailers must be marked with the word "Sample" with lettering at least ½-inches high. While suppliers and wholesalers may offer tasting samples from multiple beverages, only one (1) sample container of 750 ml size or smaller may be left with a retail licensee for sampling by the retailer and their staff. Again, the container must be marked "Sample". A sample container must be removed from the premises within 24 hours and again may not be sampled by consumers.

- Administrative rules R 436.1001, R 436.1421, R 436.1511, R 436.1513, R 436.1863

Price Posting:

The OSSW is not required to post their prices to wholesalers with the Commission. Michigan wholesalers are required to post their prices to retailers with the Commission. Wine wholesalers

must post their prices quarterly and must post prices for new products or price changes with the Commission. The wholesaler must maintain any temporary price reduction for no less than 14 consecutive calendar days.

- Administrative rule R 436.1726

Barrel Deposit:

OSSW shall collect a barrel deposit of \$10.00 for a barrel, ½ barrel, and ¼ barrel of wine or mixed wine drink. A \$10.00 cash refund must be made to a licensee who has made the deposit and returned the barrel for refund.

- Rule 436.1723a

Michigan Three-Tier Distribution System:

Michigan is a highly regulated three-tier distribution state. All alcoholic beverages shipped and sold to Michigan consumers must go through each of the three licensed distribution tiers (supplier→wholesaler→retailer). An OSSW licensee is authorized to sell wine to licensed Michigan wholesalers only. The Michigan wholesaler is then authorized to ship/sell to the licensed Michigan retailers. The licensed Michigan retailer is authorized to sell alcoholic beverages to consumers. **Under no circumstances may an OSSW ship alcoholic beverages directly to Michigan consumers.**

Rebates, Special Purchase Allowances, & Quantity Discounts:

An OSSW is prohibited from rebating any money to wholesalers. OSSW may offer special purchase allowances to wholesalers as long as the allowance is offered to all wholesalers and is based on the wholesaler purchases at the time of the allowance and not based on past sales. OSSW may offer quantity discounts to their wholesalers but may not offer free merchandise to their wholesalers.

- MCL 436.1609

Aid and Assistance

MCL 436.1609, and Rule 436.1035 prohibit alcoholic beverage manufacturers, suppliers, wholesalers or warehousemen from aiding or assisting any other licensee by giving them anything of value. Further, a licensee is prohibited from accepting aid and assistance from another industry member. Alcoholic beverage suppliers are prohibited from giving anything of value to their wholesalers or retailers. Likewise, alcoholic beverage wholesalers are prohibited from giving anything of value to their retailers. This principle is the cornerstone of Michigan's trade practices regulatory structure. It is designed to provide a level playing field for all industry members. Suppliers, wholesalers and warehousemen are prohibited from giving anything of value to retail licensees, including but not limited to: alcoholic beverages, merchandise, furniture, fixtures, equipment, uniforms, cash or loans, labor, etc.

This same principle prohibits suppliers and wholesalers from providing free advertising, incentive programs, free or discounted product, draft system installation and maintenance, etc. Violations in the aid and assistance statute will result in all participants (retailer, wholesaler and supplier) being cited before the Commission.

Section 609(3) of the Code, includes exceptions to the prohibition of items and services that a licensed supplier, wholesaler, or warehouseman may provide to any other vendor. Some of these exceptions include allowing suppliers, wholesalers, and warehousemen to provide advertising items that have no use or value beyond actual brand and price advertising, including, but not limited to: mirrors, napkin holders, and table tents to licensees. Further, Section 609 (5) allows retailers to possess and use beer and wine brand logoed barware, including, but not limited to: glassware, coasters, and napkins if they have been purchased from a third party barware retailer and also allows retailers to possess and use spirit brand logoed barware, such as: glassware, coasters, and napkins if purchased from a manufacturer of spirits, vendor of spirits, a licensed salesperson, or broker, or a third party barware retailer.

- MCL 436.1609, Administrative rule R 436.1035

Advertising and Promotions

Inside advertising signs must be unilluminated and no more than 3,500 square inches in dimension. Alcoholic beverage advertising provided by suppliers and wholesalers to retailers shall not have any use or value beyond the actual advertising of brands and prices of the alcoholic liquor, other than the exceptions provided in MCL 436.1609(2)(30(4).

- Administrative rules R 436.1305 – R 436.1331 MCL 436.1609

How To Contact The Michigan Liquor Control Commission:

Questions relating to Outstate Sellers of Wine or other non-retail licenses may be directed to:

Michigan Liquor Control Commission

Licensing Division

P.O. Box 30005

Lansing, MI 48909

Toll-Free 1-866-813-0011 Fax: (517) 763-0060

E-mail: MLCCMWhapplications@michigan.gov Website: www.michigan.gov/lcc

