

# Michigan Vendor of Spirits Requirements and General Information

## General Overview:

Michigan operates as a “control” state for the sale of spirits. That is, the Michigan Liquor Control Commission (MLCC) acts as the wholesaler for all spirit products. A “Vendor of Spirits” sells spirits to the MLCC. The MLCC then resells the spirits to both on and off-premises retail licensees. Spirit products are warehoused and delivered to retail licensees by Authorized Distribution Agents (ADA). An ADA is required to be certified by the MLCC and is also required to have a contract with each Vendor of Spirits they represent to deliver their particular spirit products. Spirit products that are sold to consumers for off-premises consumption by licensed Specially Designated Distributors (SDD). The MLCC sets the minimum retail selling price of the spirit products. The minimum retail selling price set by the MLCC is determined by the cost of the spirit product to the MLCC, a 65% mark-up, and a combination of specific taxes. All of the aforementioned components of the system are further described below.

## **Definitions:**

- **“Alcoholic liquor”** (MCL 436.1105(2)) means any spirituous, vinous, malt, or fermented liquor, liquids and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 2 of 1% or more alcohol by volume which are fit for beverage purposes. The Commission shall define and classify alcoholic liquor according to alcoholic content as belonging to 1 of the varieties defined in this chapter.
- **“Authorized distribution agent”** (MCL 436.1105(4)) means a person approved by the commission to do one or more of the following:
  - (a) To store spirits owned by a supplier of spirits or the commission.
  - (b) To deliver spirits sold by the commission to retail licensees.
  - (c) To perform any function needed to store spirits owned by a supplier of spirits or by the commission or to deliver spirits sold by the commission to retail licensees.
- **“Mixed spirit drink”** (MCL 436.1109(4)) means a drink produced and packaged or sold by a mixed spirit drink manufacturer or an outstate seller of mixed spirit drink which contains 10% or less alcohol by volume consisting of distilled spirits mixed with nonalcoholic beverages or flavoring or coloring materials and which may also contain 1 or more of the following:
  - (a) Water.
  - (b) Fruit juices.
  - (c) Fruit adjuncts.
  - (d) Sugar.
  - (e) Carbon dioxide.
  - (f) Preservatives.

**\*\*\*Please note that mixed spirit drinks are distributed through the private wholesale network and not through the MLCC’s spirit distribution system. You must hold an Outstate Seller of Mixed Spirit Drink to import mixed spirits into Michigan.**
- **“Spirits”** (MCL 436.1111(13)) - any beverage which contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and

includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink.

- **“Vendor of Spirits”** (MCL 436.1113(4)) - a person who sells spirits to the Commission.
- **“Vendor representative”** (Rule 436.1001(x)) - a person who is licensed by the commission and who is authorized by the manufacturer of beer or wine, an outstate seller of beer or wine, or a vendor of spirits to represent the respective employer or principal in transactions with the Commission.

## Vendor of Spirits Requirements:

A new Vendor of Spirits must submit the following:

- Contract with Authorized Distribution Agent, containing the following:
  - The contract must designate each brand of spirits the ADA is authorized to warehouse and deliver.
  - The contract must specify the ADA’s authorized geographical delivery area. The entire state must be covered in some manner, either through one ADA or with multiple ADA’s. There can be no overlapping of territories if multiple ADA’s are used.
  - The contract must indicate the responsibilities of both parties.
  - The contract must have a specific beginning and ending date.
  - The contract must specify the amount per case to be paid to the ADA by the Vendor of Spirits. This warehouse/delivery fee must be a minimum of \$8.32 per case. \*\*\$6.97 of this per case warehouse/delivery fee is offset by MLCC payment to the Vendor of Spirits for each case, in addition to the quoted case cost paid by the MLCC.
  - The contract must be signed by both the ADA and the Vendor of Spirits.
- Liquor quotations must be filed for each brand and package size through the MLCC’s on-line E-Quote system at: <http://www.michigan.gov/lcc>. As part of the on-line E-Quote system, vendors must electronically send a copy of each label or link to an Internet address where MLCC staff can view the label.
- Vendor Representative Appointment. Each Vendor of Spirits must appoint one individual to be their Vendor Representative. The Vendor Representative acts as a liaison with the MLCC. Only one Vendor Representative per Vendor of Spirits is allowed. A person representing more than one Vendor of Spirits must have a separate Vendor Representative license for each company. **Application for Vendor Representative License** form (LC-MW-843A) should be completed and submitted along with \$50.00 license fee. The person must be at least 18 years of age and may not have any interest in any retail license. The person does not have to be a Michigan resident. The licensing period runs from May 1 to April 30.

## Fees:

There is no application fee or any annual license or permit fee for a Vendor of Spirits. The only fee associated with a Vendor of Spirits is the \$50.00 fee for the Vendor

Representative license for the individual representing them with the MLCC.

## How to Register New Products:

All spirit products are now registered on-line through the MLCC's E-Quote system. Vendors of Spirits are provided with a User Name, Password and Database Identifier for access to the on-line registration system. For more information on Michigan's on-line spirit product registration system, visit the MLCC's Website at <http://www.michigan.gov/lcc> or contact the MLCC's Financial Management Division at (517) 322-5882.

## Value Added Packs:

Value added packs are defined as any combination package containing a spirit product and any other item, including other spirit products. The MLCC must approve all value added packs. If approved by the MLCC, the value added pack will receive a distinct product code and will be listed along with all other spirit products. Value added packages may not include: beer or wine products, containers requiring returnable deposits, tobacco products or any other item deemed inappropriate by the MLCC. Value added packs are also registered through the MLCC's E-Quote system.

**Package Sizes:** The following packages are approved for sale in Michigan:

<u>Size</u>	<u>Bottles Per Case</u>	<u>Size</u>	<u>Bottles Per Case</u>
1750ml	6	200ml	48
1000ml	12	100ml	48
750ml	12	50ml	120
375ml	24		

- In addition to the aforementioned packages, the MLCC may authorize other package sizes as deemed appropriate. Approved exceptions to the standard case sizes include: case cost exceeding \$200.00, case weight exceeding 65 pounds and value-added packages. The MLCC will consider other reasons for waiver requests on an individual basis. You must request a waiver from the approved case standards. The multi-state case code label as proposed by National Alcoholic Beverage Control Association (NABCA) is approved for spirit products imported into Michigan.

## Authorized Distribution Agent:

As indicated earlier, an ADA is certified by the MLCC to warehouse and deliver spirits to retail licensees. An ADA must have a written contract with each Vendor of Spirits they represent. The contract must specify the following:

- The contract must designate each brand of spirits the ADA is authorized to warehouse and deliver.
- The contract must specify the ADA's authorized geographical delivery area. The entire state must be covered in some manner, either through one ADA or with multiple ADA's. There can be no overlapping of territories if multiple ADA's are

used.

- The contract must indicate the responsibilities of both parties.
- The contract must have a specific beginning and ending date.
- The contract must specify the amount per case to be paid to the ADA by the Vendor of Spirits. This warehouse/delivery fee must be a minimum of \$8.32 per case.
- Both the ADA and the Vendor of Spirits must sign the contract.

ADA's are required to make weekly deliveries to any retail licensee making a one case or more minimum order. ADA's may not charge any split case fees nor may they charge any delivery fee except for emergency orders placed by retail licensees in addition to their weekly delivery. In such cases, ADA's may charge a \$20.00 delivery fee. The ADA is responsible for collecting payment from the retail licensee on behalf of the MLCC and is responsible for submitting various sales documents to the MLCC. An ADA may not have any interest, directly or indirectly in any Vendor of Spirits or in any retail licensee. A Vendor of Spirits must make each of its products available statewide to all retail licensees. While a Vendor of Spirits may utilize more than one ADA to cover the state, all document transmittals required by the MLCC must be done by only one ADA.

### **Uniform Price, Taxes & Mark-up:**

All off-premises retail licensees must sell spirits to consumers at not less than the minimum retail selling price (minimum shelf price) set by the MLCC. This uniform price is determined as follows: Vendor of Spirits files price quotations with the MLCC. The MLCC takes the per case quoted price as submitted by the Vendor of Spirits and determines the per bottle price, then adds a 65% mark-up to it. A series of specific taxes (4% specific tax for school aid fund, a 4% specific tax for the general fund, a 4% specific tax for convention facilities & tourism and a 1.85% specific tax for liquor purchase revolving fund), are then calculated on the price after the mark-up. The 1.85% tax is added only on sales to off-premises licensees. In addition, there is a 6% sales tax collected separately by the retail licensee. All retail licensees receive a 17% discount on purchases from the MLCC that is calculated before any specific taxes but after the mark-up has been added to the MLCC's cost. On premises retailers may sell spirits at any price above their cost. Off premises retailers may charge a higher price for spirits than the state's set minimum retail selling price.

### **Payment to Vendor of Spirits:**

In addition to paying the Vendor of Spirits the acquisition cost (quoted price) for the purchase of spirits, the MLCC must pay the Vendor of Spirits an amount of not less than \$4.50 and not more than \$7.50 for each case of spirits purchased as an offset to the costs being incurred by the Vendor of Spirits in contracting with an ADA for warehousing and delivery of spirits to retailers, pursuant to MCL 436.1205, Sec. 205 (13). **This per case offset is currently \$6.97** and may be increased to reflect industry increases in the ADA's cost of warehousing and delivery.

### **Quarterly Price Books (New Products & Price Changes):**

The MLCC publishes an updated price book of all spirit products available to retail licensees every three months. These quarterly price books are mailed directly to the retail

licensees. The quarterly price books are the only time existing products' prices may be changed. As noted above, all liquor price quotations are registered on-line through the MLCC's E-Quote system.

### **Monthly Price Book Update (New Products & Packages Only):**

In addition to the quarterly price book, the MLCC produces and distributes a monthly supplemental price schedule for new items or package changes. Prices for existing packages may not be changed in the monthly supplemental price report. The monthly supplemental price schedules are distributed to retail licensees by the ADAs. As noted above, all liquor price quotations are registered on-line through the MLCC's E-Quote system on the MLCC website at <http://www.michigan.gov/lcc>.

### **Salesperson License:**

A Vendor of Spirits or other company representing a Vendor of Spirits shall not employ a person to sell, deliver, promote, or otherwise assist in the sale of alcoholic liquor unless the person is licensed by the MLCC as a Vendor Representative or Salesperson. As noted earlier, the MLCC will recognize only one (1) Vendor Representative per Vendor of Spirits. Any other persons assisting in the sale or promotion of alcoholic liquor must obtain a Salesperson license. **Application for Salesperson License** form (LC-MW-843) should be completed and submitted on behalf of the salesperson. A person must be 18 years of age or older and can have no interest in any retail license. The fee for a Salesperson license is \$35.00 for a three-year licensing period. The current licensing period expires April 30, 2011. No prorating of license fee is allowed. Salesperson applications may be obtained from the MLCC Licensing Division or downloaded from the MLCC's website at <http://www.michigan.gov/lcc>.

### **Corporate Sales License (Broker's License):**

Vendors of Spirits often employ companies to act as brokers or promotional agents on their behalf. The MLCC requires such companies to obtain a Corporate Sales License authorizing the company to promote the spirit products on behalf of the Vendor of Spirits. **Application for Corporate Sales License** form (LC-MW-843C) must be completed and submitted. A company representing more than one Vendor of Spirits must obtain a separate Corporate Sales License for each Vendor of Spirits they represent. A Corporate Sales Licensee may not have any interest in any retail licensee. The fee for a Corporate Sales License is \$35.00 for a three-year licensing period. The current licensing period expires April 30, 2011. Application for Corporate Sales Licenses may be obtained from the MLCC Licensing Division or downloaded from the MLCC's website at <http://www.michigan.gov/lcc>.

### **Aid and Assistance:**

Section 609 of the Code, being MCL 436.1609, prohibits alcoholic beverage manufacturers, suppliers, or wholesalers 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 and wholesalers 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. While wholesalers and suppliers may provide point-of-sale materials such as posters, banners, table tents, flyers, etc., to retailers promoting their brands and prices, they are prohibited from providing anything that has any secondary use, value or purpose, other than actual advertising value to retailers without prior MLCC approval. 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 MLCC.

- MCL 436.1609

### **Advertising and Promotions:**

Inside advertising signs must be no more than 3,500 square inches in dimension. Advertising which promotes anything other than or in addition to your alcoholic beverage product requires prior MLCC approval. Advertising on anything having any secondary value, use or purpose other than advertising, requires prior MLCC approval. Point of sale material that only advertises product and price does not require MLCC approval. If the point of sale material advertises anything else, it requires prior MLCC approval.

A Vendor of Spirits is prohibited from paying any retail licensee for advertising or display space. Cooperative advertising between a Vendor of Spirit and retailers or between a Vendor of Spirit and suppliers is prohibited.

- MCL 436.1609

### **Interest in Other Licensees:**

A Vendor of Spirits is prohibited from having any direct or indirect interest in any ADA or in any retail licensee. This prohibition includes financial interest, ownership interest, interlocking board of directors and leasehold interest.

- MCL 436.1603

### **Beer, Wine & Mixed Spirit Drink Distribution:**

Unlike spirits, beer, wine and mixed spirit drinks are distributed in Michigan through a private wholesale network. The MLCC licenses suppliers (Brewer, Micro Brewer, Wine Maker, Small Wine Maker, Manufacturer of Mixed Spirit Drink, Outstate Seller of Wine, Outstate Seller of Beer, and Outstate Seller of Mixed Spirit Drink) to ship and sell their products to licensed Michigan Wholesalers. The Wholesaler is licensed to ship and sell to

licensed Michigan retailers. The licensed Michigan retailer is authorized to sell to Michigan consumers. Details on any of these licenses may be obtained from the MLCC Licensing Division.

## **Authorized Distribution Agents**

### **GENERAL WINE & LIQUOR COMPANY, INC.**

373 Victor Avenue  
Highland Park MI 48203  
(888) 860-3805

### **NATIONAL WINE & SPIRITS INC.**

17550 Allen Road  
Brownstown, MI 48192  
(888) 697-6424

### **IMPERIAL BEVERAGE COMPANY**

3825 Emerald Drive  
Kalamazoo, MI 49001  
(269) 382-4200