



STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LIQUOR CONTROL COMMISSION

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In the matter of Distilled Spirit Product)
Distribution by the Authorized Distribution)
Agents)

General Wine & Liquor Company, Inc.)
373 Victor Avenue)
Highland Park, MI 48203)

NWS Michigan, LLC)
13000 Eckles Road)
Livonia, MI 48150)

Imperial Beverage Company)
3825 Emerald Drive)
Kalamazoo, MI 49001)

_____)

At the December 19, 2019 meeting of the Michigan Liquor Control Commission (Commission) in Southfield, Michigan.

PRESENT: Pat Gagliardi, Chairman
Dennis Olshove, Commissioner
Geraldyn A. Lasher, Commissioner

ADMINISTRATIVE ORDER NO. 2019-04
APPROVAL FOR DISTILLED SPIRIT PRODUCTS DISTRIBUTION CHANGES

Article IV, Section 40, of the Michigan Constitution (1963), permits the legislature to establish a Liquor Control Commission, which shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. MCL 436.1201(2) provides the Commission with 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.

The Commission has before it the issue of Authorized Distribution Agents (ADAs) acquiring products for warehousing and distribution to Michigan retailers. Recently, the Commission has expended substantial resources addressing significant problems related to the inability of NWS Michigan, LLC, to properly service retail licensees with spirits, which is the primary purpose for being appointed as an ADA. See MCL 436.1205(1). This problem has been compounded by the fact that NWS handles approximately 75% of the spirits market in Michigan, leading to a mass of unfulfilled orders and rightfully dissatisfied customers statewide. In this regard, hundreds of complaints have been made to the Commission by retailers statewide complaining about the spirits delivery service of NWS. Spirits stock shortages are being reported statewide, and NWS has reported substantial warehousing issues at its new facility in Livonia, including but not limited to, significant software issues. Given the urgency that these circumstances have created, it is imperative that the Commission take emergency action to help address this issue. As such, the Commission issues this Administrative Order under the authority of the Liquor Control Code and Mich Admin Code, R 436.1802(14), which permits the Commission to issue orders establishing business operating procedures for ADAs.

Among other things, for an ADA to be eligible for appointment by the Commission as an ADA, the ADA must demonstrate to the Commission that it “has an adequate warehousing facility located in this state for the storing of spirits from which all delivery of spirits to retail licensees must be made.” MCL 436.1205(2)(c). Further, both Mich Admin Code, R 436.1802(5), and the Administrative Orders that certified the ADAs require “an authorized distribution agent [to] maintain an adequate physical plant and proper equipment to perform the functions for which the authorized distribution agent is certified.”

Previously, the Commission had required Commission approval before spirits products could be moved between ADAs. See Administrative Order dated February 9, 2011. Although that Order was rescinded in 2015, in light of the current circumstances, this Commission now returns to a similar process. The Commission finds that this Administrative Order should be approved to require the ADAs to obtain Commission

approval before adding any product (whether size or variety) to the ADA's product listings to assist the Commission in determining whether the ADA currently has, and is maintaining, an adequate physical plant and proper equipment to perform the functions for which it has been certified, primary among which is maintaining an adequate warehousing facility to properly service retail licensees with spirits.

THEREFORE, IT IS ORDERED THAT:

- A. Before warehousing or distributing a spirits product currently listed with a different ADA, a proposed ADA must submit a written request to the Commission's Financial Management Division asking for approval to warehouse and distribute the product. That ADA may not warehouse or distribute the spirits product until Commission approval has been received.
- B. The proposed ADA's written request must be submitted at least 90 days before the anticipated effective date of the change, consistent with Administrative Order No. 2015-04, Distilled Spirit Products Distribution Changes (attached).
- C. A request for approval may address multiple products from the same vendor, if applicable.
- D. The request must identify the current ADA for the product, the new ADA, the desired effective date of the change, the product code, name, and size, projections for the number of cases of the product the ADA anticipates receiving from the vendor and delivering to retailers annually, and an explanation of the ADA's capacity to increase its product warehousing and distribution to accommodate the product.
- E. The request must also include the proposed ADA contract or addendum.
- F. The ADA must accurately provide all of the required documentation and provide any additional information the Commission requests to prevent a delay in receiving the Commission's decision.
- G. If the ADA receives Commission approval to warehouse and distribute the product, the ADA must provide the executed contract or addendum before warehousing or distributing the product.

- H. This Order does not change any other requirement in Administrative Order No. 2015-04.
- I. This Administrative Order is effective beginning with the ADA changes that will take effect on May 3, 2020.
- J. This Administrative Order expires automatically 18 months after today's date.

MICHIGAN LIQUOR CONTROL COMMISSION



Pat Gagliardi, Chairman



Dennis Olshove, Commissioner



GERALYN A. Lasher, Commissioner



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Agents)

General Wine & Liquor Company, Inc.)
373 Victor Avenue)
Highland Park, MI 48203)

NWS Michigan, Inc.)
17550 Allen Road)
Brownstown, MI 48192)

Chinese Import & Export Co.)
1100 Owendale – Suite F)
Troy, MI 48083)

At the April 7, 2015 meeting of the Michigan Liquor Control Commission
(Commission) in Lansing, Michigan.

PRESENT: Andrew J. Deloney, Chairman
Dennis Olshove, Commissioner

ADMINISTRATIVE ORDER NO. 2015-04
DISTILLED SPIRIT PRODUCTS DISTRIBUTION CHANGES

Article IV, Section 40, of the Michigan Constitution (1963), permits the legislature to establish a Liquor Control Commission, which shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. MCL 436.1201(2) provides the Commission with 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.

The Commission has before it the issue of Suppliers/Vendors of Spirits moving distilled spirit products between Authorized Distribution Agents (ADAs). To address this issue, the Commission presents this Administrative Order under the authority of the Liquor Control Code, MCL 436.1101 et seq. Specifically, for an ADA to be eligible for appointment by the Commission as an ADA, the ADA must demonstrate that it has entered into a written agreement or contract with a Supplier/Vendor of Spirits for the purpose of warehousing and delivering a brand or brands of spirits of that Supplier/Vendor of Spirits. MCL 436.1205 and R 436.1802.

After review and discussion of this issue at the meeting, the Commission finds that this Administrative Order should be approved to establish requirements for moving distilled spirit products between the ADAs.

THEREFORE, IT IS ORDERED THAT:

- A. Distilled spirit products of Suppliers/Vendors of Spirits may be moved between ADAs no more than four times each calendar year.
- B. The movement of distilled spirit products between the ADAs will be effective on the same quarterly dates that price changes are effective.
- C. An ADA must provide written notice of an ADA Supplier/Vendor of Spirits change to the Commission's Financial Management Division at least 90 days before the effective date of the ADA change.
- D. The ADA's written notice must identify the current ADA of the Supplier/Vendor of Spirits, new ADA, effective date of the change, and

- product names. The notice must also include an ADA contract or addendum and an acknowledgement by the new ADA.
- E. The ADA must ensure that the Supplier/Vendor submits an ADA change quotation in the State's E-quote system for every liquor code being moved.
 - F. The ADA must provide all of the required information and must ensure that all of the required functions are accurately and completely performed at least 90 days before the effective date of the ADA change to prevent a delay in the ADA change.
 - G. This Administrative Order is effective immediately.

MICHIGAN LIQUOR CONTROL COMMISSION



Andrew J. Deloney, Chairman



Dennis Olshove, Commissioner