

# MICHIGAN LIQUOR CONTROL COMMISSION

## 2019 Direct Shipper Enforcement Report

### *Pursuant to P.A. 60 OF 2019, Section 401*

During 2019, the Michigan Liquor Control Commission (MLCC) Enforcement Division identified and investigated unlicensed out-of-state retailers, third-party marketers, and wineries by reviewing, sorting, and analyzing shipments of wine that were unlawfully delivered directly to Michigan consumers. In addition, online purchases were made in an effort to audit and locate unlawful direct shipments from both in-state and out-of-state licensed entities to determine compliance with the Michigan Liquor Control Code and Administrative Rules.

In 2019, MLCC enforcement efforts were contributed by an analyst, six investigators, and three supervisors who were guided by upper management personnel. The team invested over 2,750 hours which included research, phone calls, attending meetings, making online purchases, report writing, and testifying in court hearings. Enforcement expenses include partial employee salaries and benefits, administrative costs, along with online alcohol purchases, shipping fees, and storage for said products. Licensing and Regulatory Affairs (LARA) reported Direct Shipper Enforcement 2019 expenditures to be \$234,809.

Thirty-six (36) out-of-state entities were investigated by the MLCC Enforcement Division through online purchases. Twenty-five of these entities were identified as being unlicensed. A total of 56 bottles of alcohol was acquired through online purchases. Thirty-nine (39) of those bottles were purchased from unlicensed wineries, retailers and third-party marketers representing 29,250 milliliters of alcohol shipped illegally. The above purchases resulted in 37 requests to the Michigan Office of Attorney General to send Cease & Desist letters to these unlicensed sellers.

The remaining 17 bottles were purchased from MLCC licensed sellers representing 12,750 milliliters of alcohol. These sellers were found to be either in compliance with MLCC or were issued a Violation Warning Notice/Violation Report. Some of the common violations include: failing to register products, failing to manufacture their own products, failing to obey a Commission Order, use and benefit of an MLCC license, and transferring location of licensed premises without Commission approval. Six Violation Reports were submitted to the Michigan Office of Attorney General with a current status as follows:

- Four violations pending adjudication
- One violation resulting in negotiated settlement wherein licensee acknowledged charges and voluntarily relinquished Direct Shipper license as it became apparent they did not qualify for license
- One violation pending decision from MLCC hearing held in 2019

MLCC Enforcement Division continued to focus on reviewing common carrier reports. The reports are required to be submitted to the Commission quarterly detailing all deliveries of alcohol into the state of

Michigan. Reports were received from both Federal Express and United Parcel Service. Those reports outlined the details of thousands of deliveries. Factors to consider by the MLCC Enforcement Division included whether the entity was licensed, where the product originated, and whether a shipping facility was involved. Despite the difficulties encountered during these in-depth investigations, an additional 129 Cease & Desist letters were sent by the Michigan Office of Attorney General to unlicensed sellers for illegally shipping alcohol directly to Michigan consumers.

Supplemental enforcement activities included educating unlicensed and licensed businesses to further their knowledge of and to gain compliance with the Michigan Liquor Control Commission Code and Rules. During the annual renewal time of MLCC licenses, telephone calls were placed to out-of-state licensees who had not renewed their Direct Shipper license. This courtesy call advised licensees how to ship alcohol legally into Michigan and answer their questions. Follow up attempts to purchase alcohol were conducted on entities who received Cease & Desist letters from the Michigan Office of Attorney General. Results included the following:

- Amended website to reject sales and shipments of wine to Michigan
- Canceled customer orders advising they do not ship wine to Michigan
- Applied for and received the required Direct Shipper license
- No change made to shipping practices and again shipped wine to Michigan

Entities continuing to ship alcohol to Michigan consumers after receiving a Cease and Desist letter are forwarded to the Michigan Office of Attorney General for further legal action.

The MLCC Enforcement Division continues to recognize the problem of illegal shipments of alcohol into the State of Michigan by unlicensed wineries, retailers, and third party marketers. However, due to its limited administrative authority, the Enforcement Division can only take action against MLCC licensees while referring non-MLCC licensed shippers to the Michigan Office of Attorney General.

MLCC Enforcement Division strives to deter the illegal importation of alcohol into the state. During 2020, the Division plans to expand investigations of large volume shippers detailed on the common carrier report to determine whether they qualify for licensure or if they are a shipping/fulfillment center shipping illegally into Michigan.