

MICHIGAN LIQUOR CONTROL COMMISSION

2020 Direct Shipper Enforcement Report

Pursuant to P.A. 166 OF 2020, Section 401

The year 2020 was a challenge for all with the COVID-19 pandemic affecting not only the United States but the world on a global scale wreaking havoc on our lives, livelihood, and our economy like something most of us have never seen or could have imagined. We had to learn how to do business differently and that was apparent right from the start. The Michigan Liquor Control Commission (MLCC) Enforcement Division did just that by continuing to fervently identify and investigate unlicensed out-of-state retailers, third-party marketers, and wineries who were illegally shipping alcohol into Michigan. While this looked different in 2020 and online wine sales rose to soaring numbers, MLCC did not stop researching, comparing, and analyzing shipments of wine that were unlawfully delivered directly to Michigan consumers. Furthermore, online purchases and reviews of common carrier reports were made in an effort to examine 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 2020, MLCC enforcement efforts were contributed by an analyst, five investigators, and three supervisors who were guided by upper management personnel. The team invested over 2,325 hours which included: research, phone calls, online Microsoft Teams meetings, making online purchases, report writing, and testifying in court hearings. Enforcement expenses included partial employee salaries and benefits, administrative costs/equipment/supplies, along with online alcohol purchases, shipping fees, and storage for said products. Michigan Department of Licensing and Regulatory Affairs (LARA) reported Direct Shipper Enforcement 2020 expenditures to be \$240,980.

Forty-six (46) out-of-state entities were investigated by the MLCC Enforcement Division through online purchases. Thirty-two of these entities were identified as being unlicensed. A total of 72 bottles of alcohol was acquired through online purchases. Forty-six (46) of those bottles were purchased from unlicensed wineries, retailers and third-party marketers representing 34,500 milliliters of alcohol shipped illegally. The above purchases resulted in 12 requests to the Michigan Office of Attorney General to send Cease & Desist letters to these unlicensed sellers.

The remaining 26 bottles were purchased from MLCC licensed sellers representing 19,500 milliliters of alcohol. These sellers were found to be either in compliance with the MLCC's Code and Rules or were issued a Violation Warning Notice/Violation Report. Some of these common violations include: failing to register products, failing to manufacture their own products, failing to obey a Commission Order, making false or fraudulent statements and use and benefit of an MLCC license. Four Violation Reports were submitted to the Michigan Office of Attorney General and are pending adjudication. Administrative hearing orders released in 2020 resulted in the collection of \$11,000 in fines and for one MLCC-licensed entity to cease selling 50 wines that were being shipped illegally.

MLCC Enforcement Division continued to focus on reviewing common carrier reports that indicate wine shipments directly to Michigan consumers. 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 83 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. 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:

- Winery websites amended to reflect the discontinuance of sales and shipments of wine to Michigan
- Canceled customer orders advising they do not ship wine to Michigan
- Applied for and received the required Michigan Direct Shipper license
- No change made to shipping practices and continued shipping wine to Michigan

Entities continuing to ship alcohol to Michigan consumers after receiving a Cease-and-Desist letter are brought to the attention of the Michigan Office of Attorney General with a request for further legal action. In 2020, the MLCC conducted 207 “2nd attempt” checks of previously identified unlicensed shippers. Of those a total of six requests for further legal action were submitted, two of which have been submitted for 21st Amendment Enforcement Act lawsuits that have been filed in U.S. Federal Court.

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. 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 2021, the Division plans to examine and improve the existing MLCC licensing process for Direct Shippers and to continue investigations of large volume shippers detailed on the common carrier report. It also plans to continue working with the Michigan Department of Attorney General to find new methods of reducing the illegal importation of alcohol.