

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MICHIGAN LIQUOR CONTROL COMMISSION

2021 Direct Shipper Enforcement Report

Pursuant to P.A. 87 OF 2021, Section 401

The year 2021 was an unprecedented year that had continued challenges as the COVID-19 pandemic continued to rage across the country affecting individuals and businesses. Ecommerce grew with all things imaginable being available for sale online and offered conveniently to Michigan consumers through delivery, particularly alcohol. The Michigan Liquor Control Commission (MLCC) Enforcement Division recognized there would be a continued rise in illegal shipping of alcohol during the pandemic and continued its efforts to identify and investigate unlicensed out-of-state retailers, third-party marketers, and wineries who were illegally shipping alcohol into Michigan. To stay current and understand how the wine industry sales were increasing on a broader scale as more of a virtual world platform vs. in person, MLCC understood these unlicensed entities had now deliberately sought out to become more difficult to locate as their livelihood depended on it with in person services halted. MLCC examined, researched, reviewed, compared, and analyzed shipments of wine that were unlawfully delivered directly to Michigan consumers. Supplemental time was spent on social media sites of businesses to uncover more of what the business practices entailed and to gain a deeper understanding and a complete picture of the business model. In conjunction with MLCC's investigative process, online purchases and review 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 2021, MLCC enforcement efforts were contributed by an analyst, six investigators, and three supervisors who were guided by upper management personnel. The team invested over 2,500 hours which included: research, emails, phone calls, online Microsoft Teams meetings, making online purchases, evidence tracking and report writing. Enforcement expenses include partial employee salaries and benefits, administrative costs, along with online alcohol purchases, shipping fees, and storage for said products. Michigan Department of Licensing and Regulatory Affairs (LARA) reported Direct Shipper Enforcement 2021 expenditures to be \$279,879.

Twenty-two (22) out-of-state entities were investigated by the MLCC Enforcement Division through online purchases. Fifteen of these entities were identified as being unlicensed. A total of 60 bottles of alcohol was acquired through online purchases. Thirty (30) of those bottles were purchased from unlicensed wineries, retailers and third-party marketers representing 22,500 milliliters of alcohol shipped illegally. The above purchases resulted in 15 requests to the Michigan Office of Attorney General to send Cease & Desist letters to these unlicensed sellers.

The remaining 30 bottles were purchased from MLCC licensed sellers representing 22,500 milliliters of alcohol. These sellers were found to be either in compliance with MLCC or were issued a Violation Warning Notice/Violation Report. Ten Violation Reports were submitted to the Michigan Office of Attorney General and are pending adjudication. Common violations include failure to register products,

January 13, 2022

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

failure to verify age at time of purchase and delivery, failure to include an invoice in box, failure to properly label the shipping box stating it contains alcohol and must be delivered to 21+, over shipping in excess of 13,500 annually, and failure to qualify as a Direct Shipper.

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 **30** requests were forwarded to the Michigan Office of Attorney General to send Cease & Desist letters to these unlicensed sellers.

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:

- 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
- Website found to no longer exist

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. In 2021, the MLCC conducted twenty-three (**23**) - 2nd attempt checks of previously identified unlicensed shippers. A total of 12 bottles of alcohol was acquired through online purchase and represented 9,000 ml of alcohol from unlicensed wineries, retailers and third-party marketers. Of those a total of **12** Requests for Further Legal Action were forwarded to the Michigan Office of Attorney General for the filing of 21st Amendment Enforcement Act Lawsuits for these repeat offenders.

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. To aid in further determent of the illegal shipments of alcohol into Michigan a legislative change to clearly define a Direct Shipper went into effect August 23, 2021 and now stipulates pursuant to **MCL 436.1203(25)(i), a wine manufacturer issued a Direct Shipper license may ship wine directly to Michigan consumers if it: (a) manufactured, bottled, and registered the wine with the Commission; (b) purchases wine from another wine manufacturer and further manufacturers and/or bottles the wine and registers the wine with the Commission; or, (c) purchases shiners of wine from another wine manufacturer in compliance with MCL 436.1204a and registers the wine with the Commission (option c is only allowed if the licensee also does at least one of the actions in options a or b).**

Furthermore, the MLCC improved the licensing process for Direct Shippers by revising the Direct Shipper License Application (LCC-152) to obtain additional detailed information as it relates to both in-state and out-of-state entities to promote compliance and to deter unlicensed entities from shipping alcohol to Michigan consumers.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

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 2022, the Division plans to continue investigations of large volume shippers detailed on the common carrier report.