

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

MICHIGAN LIQUOR CONTROL COMMISSION

2022 Direct Shipper Enforcement Report

Pursuant to P.A. 166 OF 2022, Section 401

The Michigan Liquor Control Commission (MLCC) Enforcement Division continued its efforts to identify and investigate unlicensed out-of-state retailers, third-party marketers, and wineries who are illegally shipping alcohol into Michigan. 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 2022, MLCC enforcement efforts were contributed by an analyst, six investigators, and three supervisors who were guided by upper management personnel. The team invested over 2,700 hours which included: training, research, emails, phone calls, online 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 2022 expenditures to be \$301,327.

Forty-two (42) out-of-state entities were investigated by the MLCC Enforcement Division through online purchases. Twenty-two of these entities were identified as being unlicensed. A total of 99 bottles of alcohol was acquired through online purchases. Sixty-five (65) of those bottles were purchased from unlicensed wineries, retailers and third-party marketers representing 48,750 milliliters of alcohol shipped illegally. The above purchases resulted in 22 requests to the Michigan Office of Attorney General to send Cease & Desist letters to these unlicensed sellers.

The remaining 34 bottles were purchased from MLCC licensed sellers representing 25,500 milliliters of alcohol. These sellers were found to be either in compliance with MLCC or were issued a Violation Warning Notice/Violation Report. Twenty-two (22) Violation Warning Notices were issued to licensees and an additional thirty-nine (39) Violation Reports were submitted to the Michigan Office of Attorney General. Two licensees elected to cancel their Direct Shipper license after receiving a notification of violation. Common violations include failure to register products, 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 liters of wine annually, use and benefit of a liquor license, 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

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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** 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 2022, the MLCC conducted numerous 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 **5** 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 and as such has had in person and virtual meetings with United Parcel Service and Federal Express to gain further knowledge of what is required on the common carrier end and translates to their reports. This has provided valuable insight into a background piece that was not understood before and will aid in further stopping illegal shippers.

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 2023, the Division plans to continue investigations of large volume shippers detailed on the common carrier report.

January 13, 2023