



***Department of the State Treasurer
Alcoholic Beverages Control Commission***

***Investigation and Enforcement Division*
*2009 Annual Report***

Members of the Investigation and Enforcement Division are Special Investigators of this Commission pursuant to Massachusetts General Laws Chapter 10 §72. As such, these Investigators are authorized and directed, pursuant to Massachusetts General Laws Chapter 138 §56, to make all needful and appropriate investigations to enforce the Liquor Control Act. In doing so, in 2009 the Investigation and Enforcement Division conducted investigations in approximately 200 Cities & Towns.

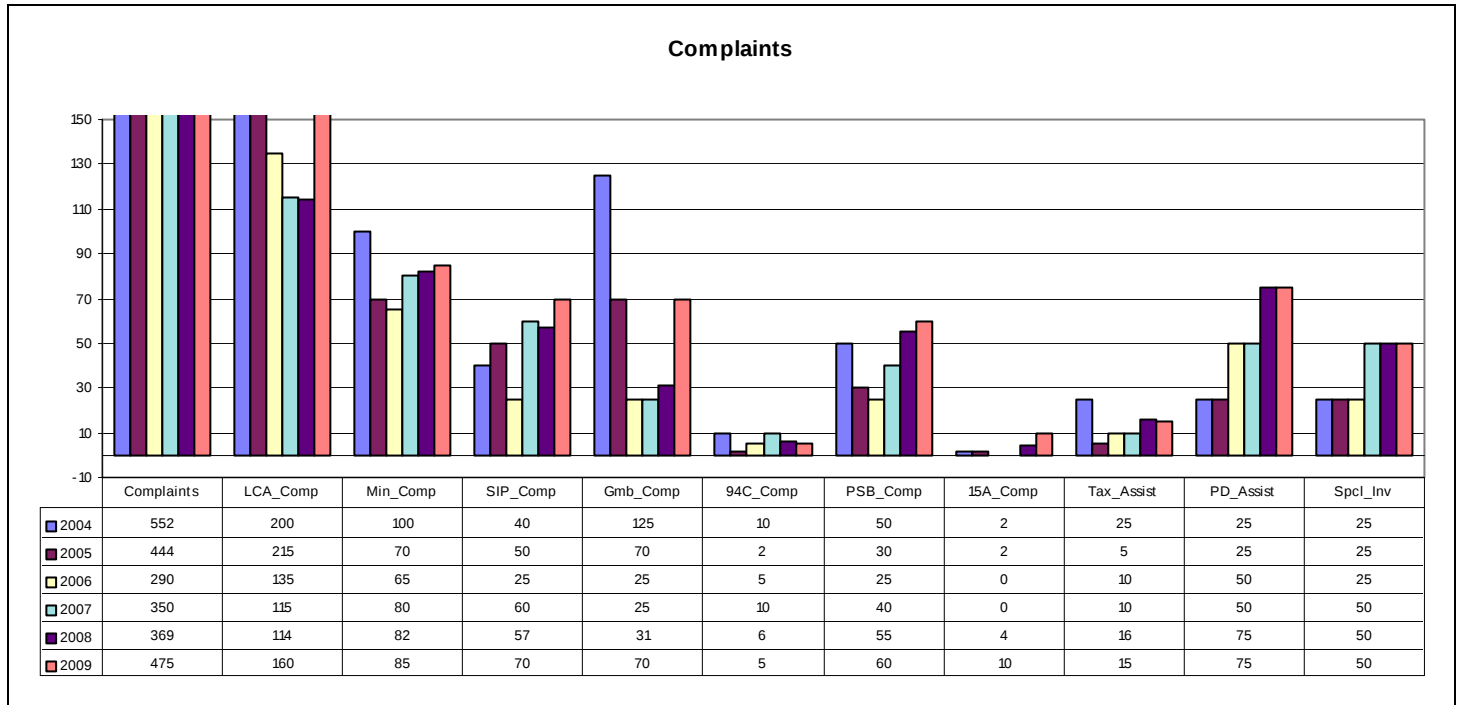
Pursuant to this statutory mandate the Investigation and Enforcement Division established the following objectives: 1) To prevent the sale or delivery of alcoholic beverages to underage individuals; 2) To prevent the sale or delivery of alcoholic beverages to intoxicated individuals and potential drunk drivers; 3) To prevent the sale of alcoholic beverages that are illegally imported or purchased from an illegal source, allowing for tax evasion by the licensee, and to prevent the tampering or dilution of alcoholic beverages; 4) To prevent illegal gambling, particularly poker machines and other electronic gambling devices; 5) To prevent the sale or delivery of illegal narcotics on licensed premises; 6) To prevent undisclosed ownership of licensed establishments by individuals or criminal organizations; and 7) To provide suppliers, wholesalers and retailers of the alcoholic beverage industry with a fair and even playing field to conduct their licensed business.

The success of the ABCC enforcement programs is well documented as the ABCC Investigation and Enforcement Division has received the following national recognition of its innovative and successful enforcement programs for the prevention of underage drinking and drunk driving:

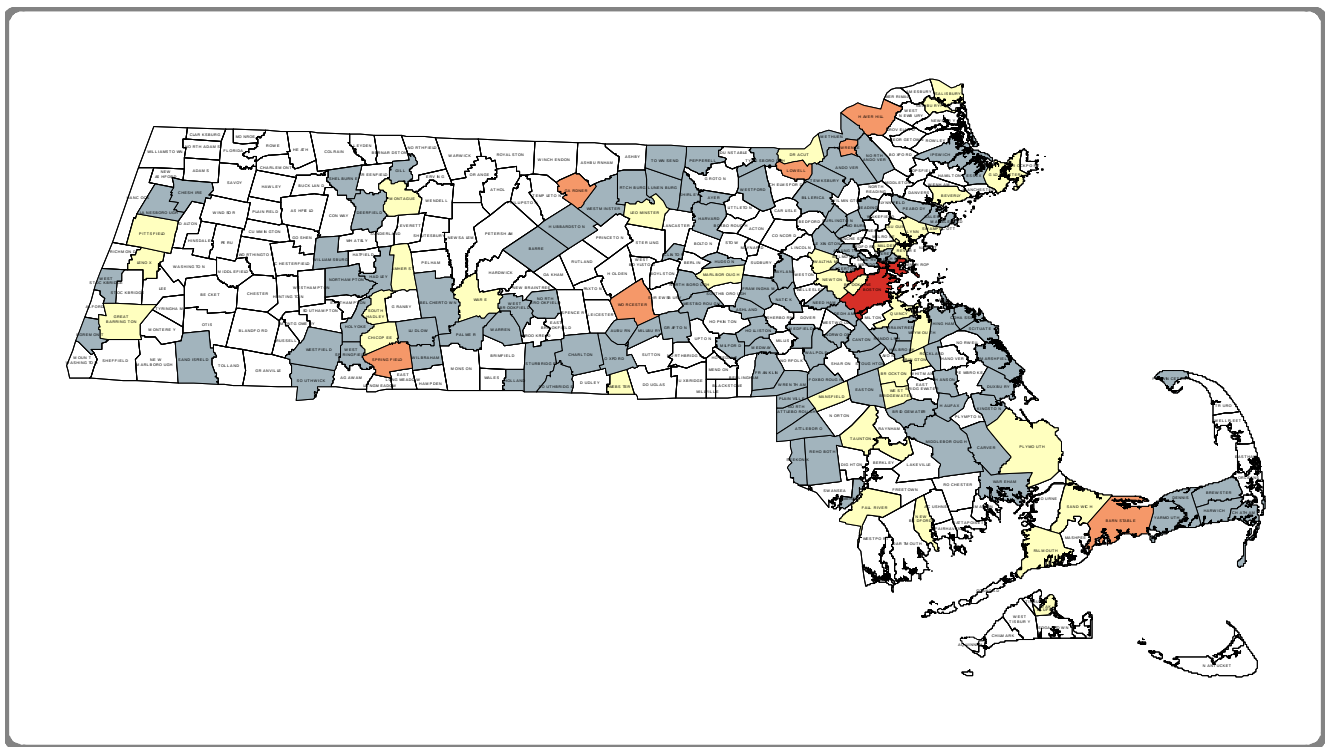
- 1) **2004**: Recognized as a **National Success Story** by the **United States Justice Department's Office of Juvenile Justice and Delinquency Prevention**
- 2) **2004**: The ABCC's Chief Investigator was named the **National Liquor Law Enforcement Association's 2004 Agent of the Year**;
- 3) **2005**: Received the **2005 President's Award** from the **National Chapter of Mothers Against Drunk Driving** for its work in the prevention of underage drinking;
- 4) **2007**: Received the **2007 "Innovations in Health and Safety" Award** from the **National Conference of State Liquor Administrators**.
- 5) **2008**: Received **National Liquor Law Enforcement Association's 2008 *Enforcement Agency of the Year Award***.

Complaints

In 2009 there were **475 complaints** that were filed with the Commission that were investigated and closed. The Enforcement Division receives complaints from the general public, local and state police, and various public interest groups. These complaints ranged from underage drinking, service of alcohol to intoxicated individuals, illegal gaming activity, illegal alcoholic beverages and illegal narcotics activity. There are also several ongoing special investigations into gambling, narcotics, and criminal ownership interests at licensed premises.

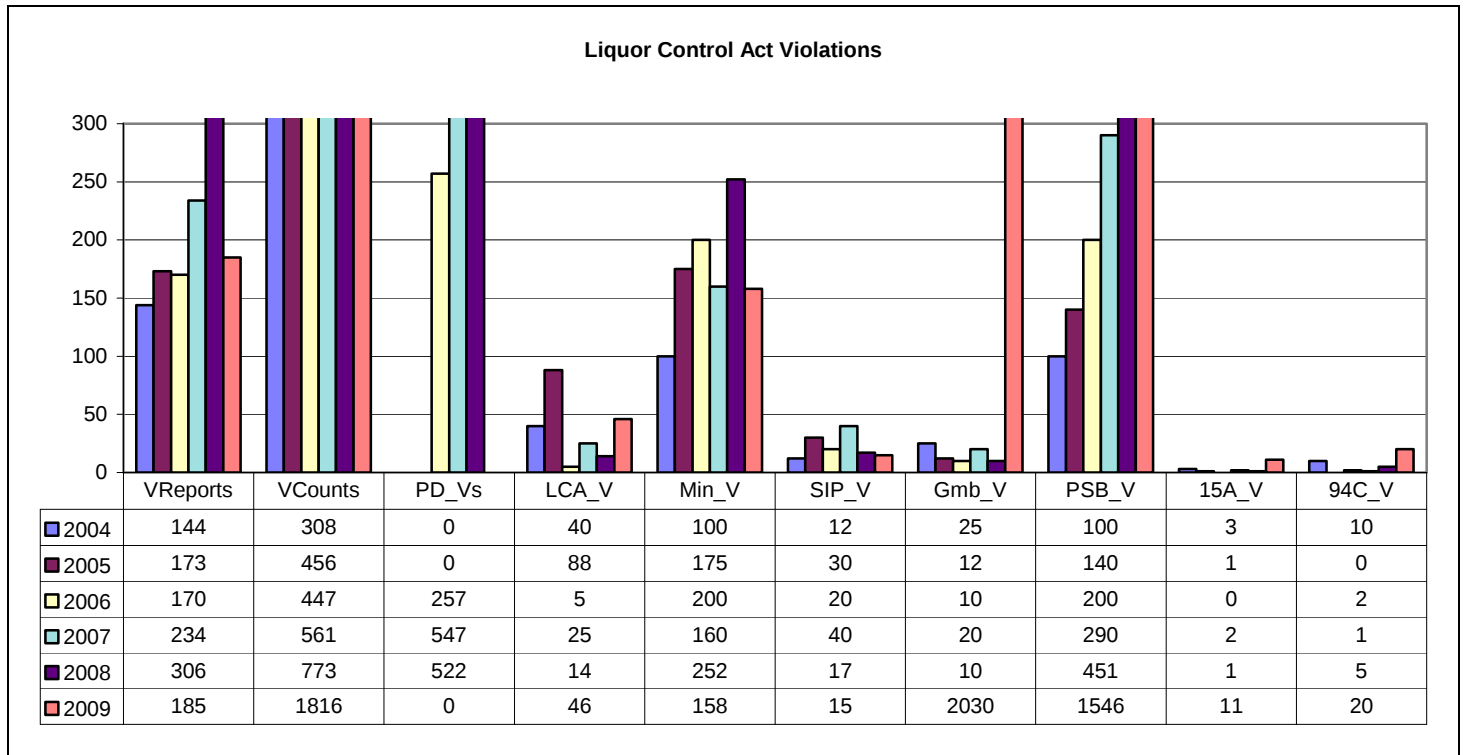


These complaints were recorded from approximately 150 municipalities across the commonwealth.

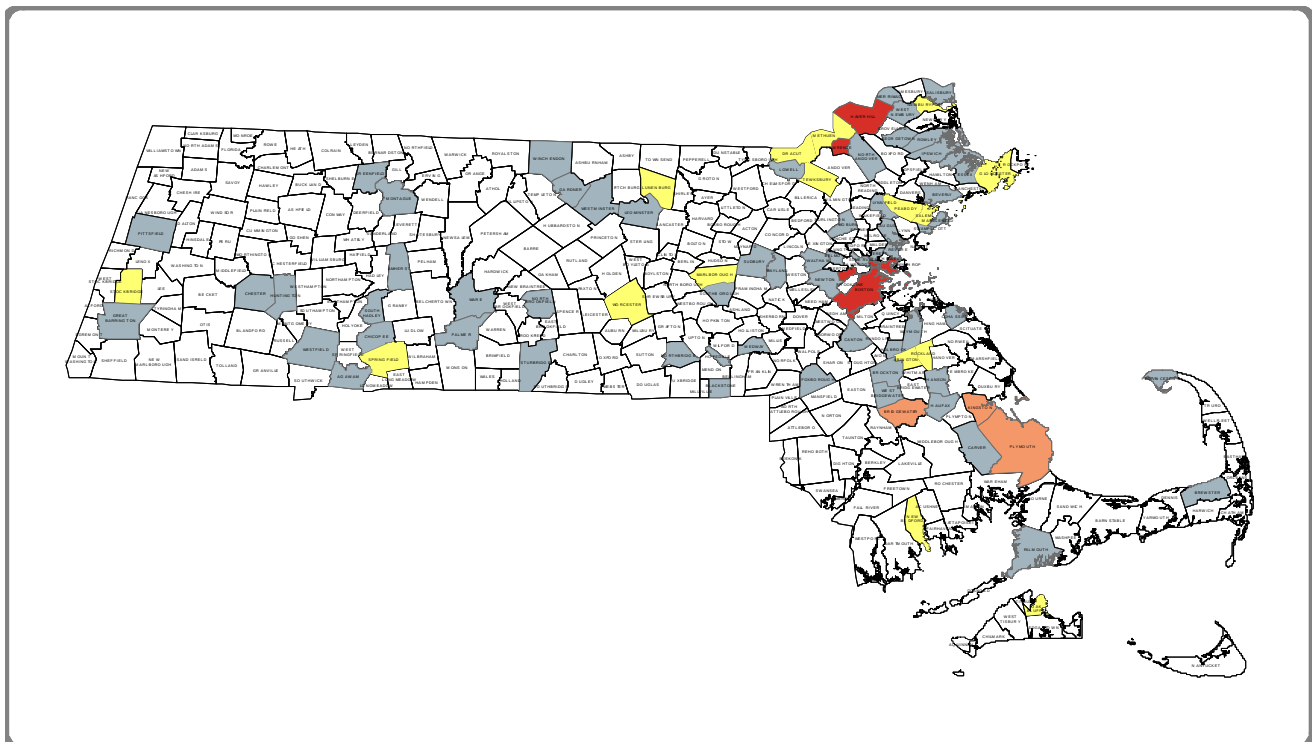


Liquor Control Act Violations

Investigators observed approximately **1800** violations of the Liquor Control Act for which over **185** reports were submitted to the Commission. These violations ranged from underage drinking, service of alcohol to intoxicated individuals, illegal gambling activity, illegal alcoholic beverages and illegal narcotics activity. Massachusetts has the 3rd lowest ratio of enforcement agents to licensees in the country, yet has conducted more enforcement operations, resulting in more liquor law violations than all Massachusetts municipalities combined.

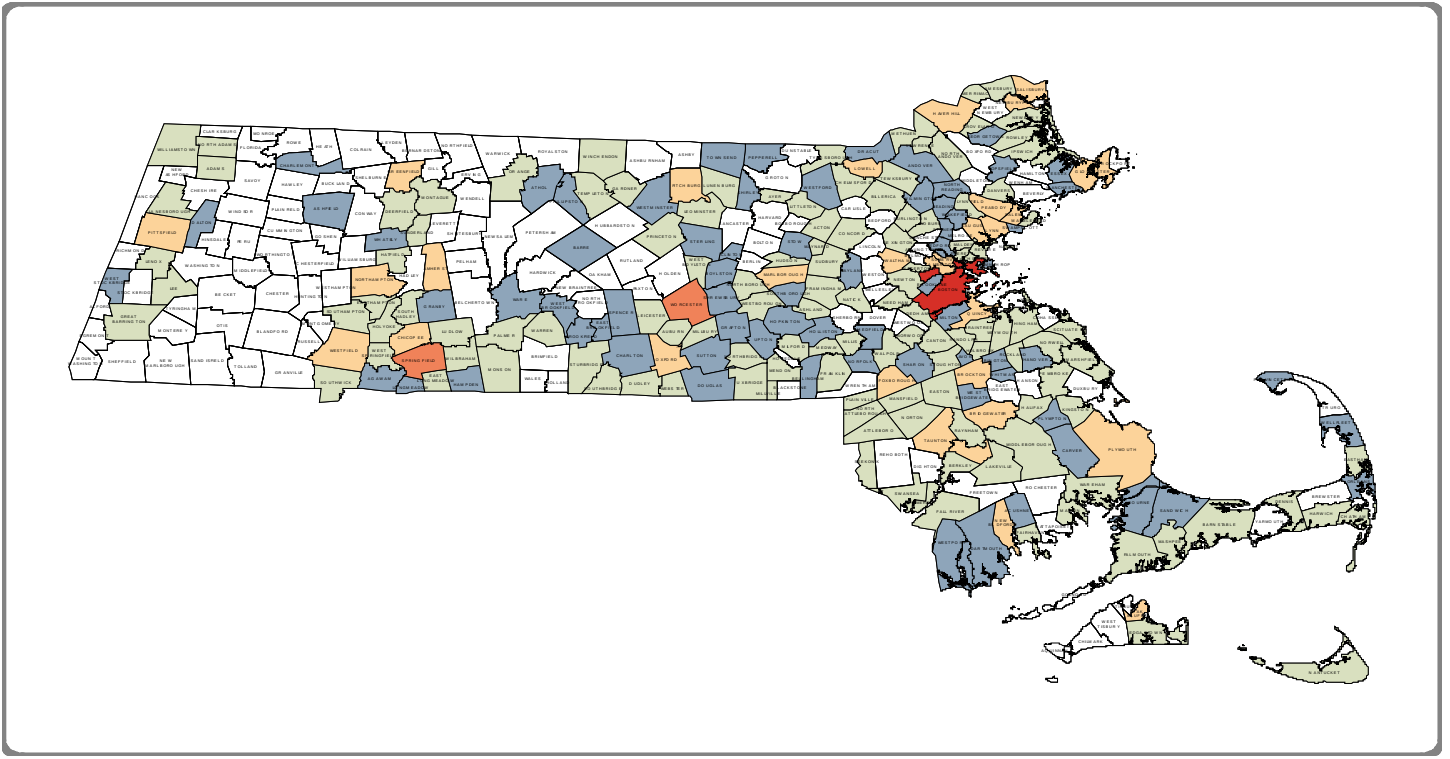


These violations were recorded from over approximately 100 municipalities across the commonwealth.



Drunk Driving Prevention Enforcement

There were over **2400** OUI reports that were filed with the Commission in 2009, which were investigated and closed. In Massachusetts, reported statistics indicate that well over 50% of people arrested for OUI had their last drink at a licensed establishment. Massachusetts General Laws Chapter 90 §24J requires that: *“In every case of a conviction of or a plea of guilty to a violation of operating a motor vehicle under the influence of intoxicating liquor, the court shall inquire of the defendant, before sentencing, regarding whether he was served alcohol prior to his violation of said section at an establishment licensed to serve alcohol on the premises and the name and location of said establishment. Any information so acquired by the court shall be transmitted by the clerk’s office to the alcohol beverage control commission*



The ABCC Investigation and Enforcement Division then compiles an annual database of these notices. This comprehensive database provides the necessary information for the Investigation and Enforcement Division to establish a **“worst offenders”** report of licensees that have been identified as being associated with the highest number of OUI convictions. The Investigation and Enforcement Division then conducts undercover operations at these licensed premises to monitor the establishments and to maintain an enforcement presence. If the licensee serves an obviously intoxicated individual, the Investigators charge the licensee with violation of MGL Chapter 138 §69 and arrange for safe transportation or protective custody for the intoxicated individual.

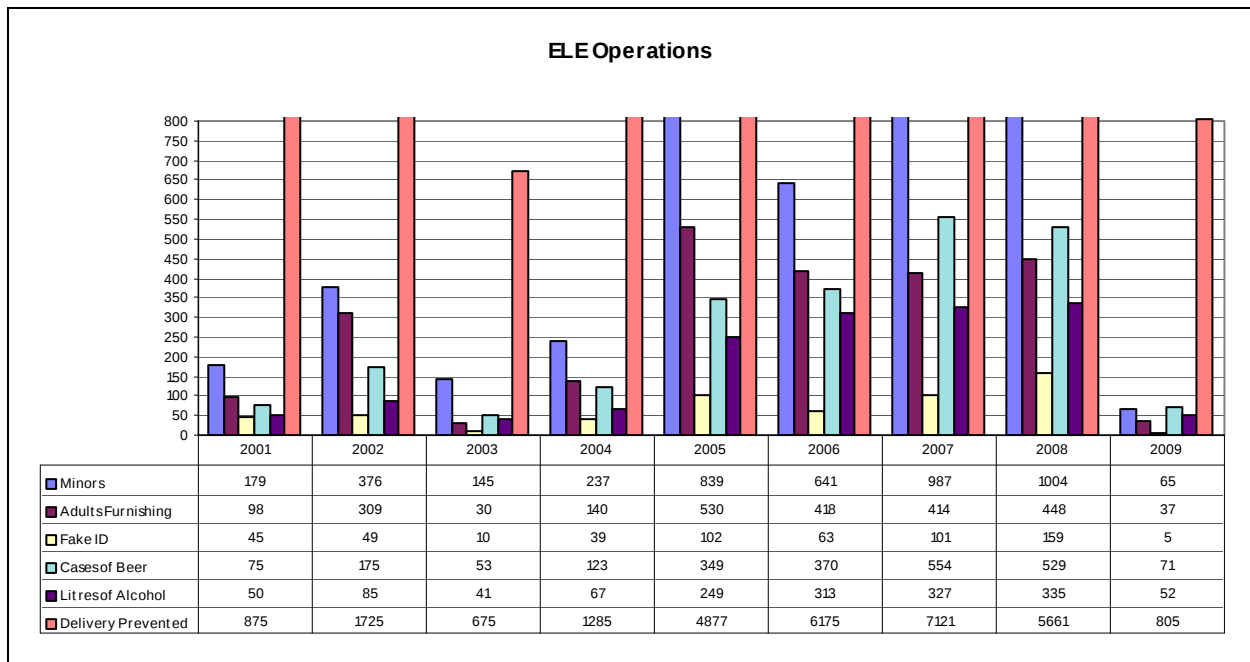
In 2007 the Investigation and Enforcement Division developed a report of licensees that were the top **30 “worst offenders”** that have been identified as being associated with the highest number of OUI convictions, **24 of these bars were charged**. These licensees were located in **22 municipalities** in Suffolk, Middlesex, Worcester, Essex, Franklin, Bristol, Hampden and Norfolk counties.

The Investigation and Enforcement Division documented 2008 §24J notices in comparison to the licensees previous record of being identified the “place of last drink” pursuant to Massachusetts General Laws Chapter 90 §24J. The 2008 data clearly **demonstrates a dramatic reduction (95%)** in the number of OUI’s originating from the bars that had been subject to the intensive liquor enforcement in November and December of 2007 and **charged** with violating Massachusetts General Laws Chapter 138 §69.

Enhanced Liquor Enforcement Programs

Massachusetts has the 3rd lowest ratio of enforcement agents to licensees in the country, Enhanced Liquor Enforcement Programs such as “Operation Safe Campus”, “Operation Safe Prom & Graduation”, “Operation Safe Summer” and “Operation Safe Holidays” have been crucial to the public safety of the commonwealth by allowing us to triple our enforcement efforts. In 2009 the budget for these programs was eliminated due to an overall reduction in the general budget. The Enforcement Division continues to attempt to implement these programs to the best of their ability given the current reduction in resources.

Since 2001 Investigators have conducted these programs with the following results: **4500 minors** in possession, transporting or attempting to purchase alcoholic beverages; **2500 adults** were found to be procuring alcohol for minors; **600 individuals** in possession of false identification; and **2300 cases of beer and 1500 bottles of alcoholic beverages** were confiscated or prevented from delivery by ABCC Investigators. Based on the national standard for determining “binge drinking”, the confiscating of this alcohol prevented delivery to approximately **29,200 underage individuals**.



Parent Notification Program

For several years the Investigation and Enforcement Division applied for criminal complaints for underage individuals found in possession of alcoholic beverages or false identification. This process resulted in a negative experience for many families and a criminal record for several underage individuals. Under the direction of Treasurer Cahill, the Division implemented it's “parent notification” program and has found it to be a tremendous success. Investigators call parents from liquor store parking lots or bars and inform them of the situation their child is in. Most parents are completely unaware that their children are involved in the use of alcohol and many drive to the location to pick them up and bring them home. Investigators have found that this type of intervention is a powerful tool toward a long-term family involvement in addressing the problem of underage drinking.

Cooperative Enforcement Operations with Local and State Law Enforcement

In 2009 the Investigation and Enforcement Division worked in close cooperation with local and state law enforcement departments on a weekly basis in order to obtain optimal enforcement coverage. Most often these efforts are generated from requests for assistance from local police chiefs who have problematic licensees in their communities or local conflicts of interest that are eliminated through ABCC cooperation. Further, when a complaint is received at the ABCC, Investigators also reach out to local police departments to conduct cooperative enforcement operations when feasible.

Illegal Gambling Enforcement

Under the direction of Treasurer Cahill, the Investigation and Enforcement Division has conducted numerous enforcement operations against illegal gambling at bars throughout the commonwealth. The primary focus of these investigations is the illegal use of electronic poker machines for the purpose of illegal gambling. The ABCC receives numerous complaints from individuals whose husbands, wives or relatives have lost their weekly paycheck in these machines.

Since 2004 the Enforcement Division has brought 2100 illegal gambling charges against approximately 125 bars and liquor stores. The ABCC estimates that each bar that illegally operates these machines, and the vending companies that supply them, garner between \$3,000 and \$10,000 per week in unreported income. At one bar Investigators uncovered information detailing machine income of \$1,400,000 and a net profit of \$400,000. This is income that should be going to the State Lottery so that the income retained will go back to the cities and towns of the Commonwealth for public safety and educational programs.

As an example, for just one vending company supplying poker machines to 20 bars at an average profit of \$5000.00 per week; the potential illegal profit for the vending company alone is \$100,000.00 per week or \$5,000,000 per year in unreported income. ABCC Investigators know of approximately 12 vending companies that are currently furnishing these machines to bars in Massachusetts.

In addition, the ABCC looks to maintain a level playing field among bar owners. For example, if a bar were profiting \$5000 per week in unreported income from illegal poker machines, the bar around the corner would have to produce approximately \$50,000 per week in sales to be competitive. Further, Massachusetts's residents should receive a fair chance of winning when they choose to gamble legally. Investigators have found that the odds on these unregulated machines are often set through internal boards to pay out at a rate as low as 60% of the monies deposited. Legitimate gambling odds are set at approximately 95% of the number of plays.

Illegal Ownership / Control Enforcement

Under the direction of Treasurer Cahill, the Investigation and Enforcement Division has conducted several enforcement operations against illegal ownership or control over bars throughout the commonwealth.

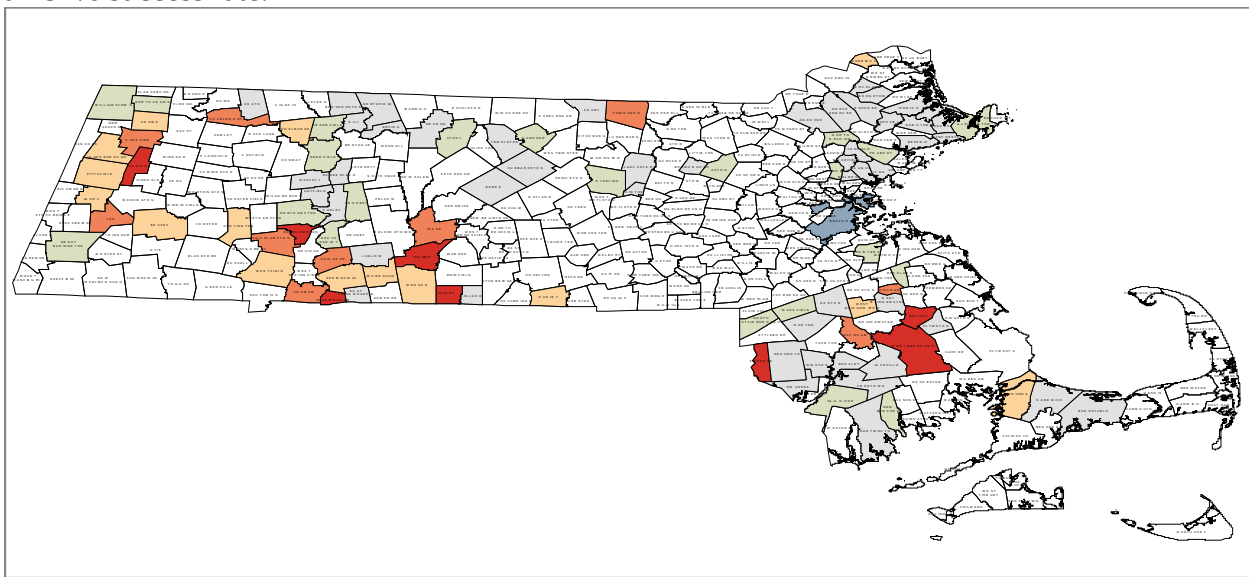
Investigators are mandated by statute to ensure that all licensees have disclosed all persons who have a direct or indirect financial or beneficial interest in a liquor license. The purpose of this statute is to prevent individuals, who are not of good character and fitness, or criminal organizations from holding an interest in Massachusetts bars and from using such bars to launder monies that may have been obtained through illegal methods.

Compliance Checks

The objective of this operation is to prevent the sale of alcoholic beverages to underage individuals by licensed establishments throughout the Commonwealth. The primary focus is to educate licensees and to increase their vigilance in the checking of identification. To achieve this objective the Investigation and Enforcement Division conducts Compliance Check enforcement in cooperation with the Mothers Against Drunk Driving Youth in Action Program and approximately 25 regional community coalitions. These groups provide the underage individuals that act as decoys, as well as preliminary training of the underage individuals.

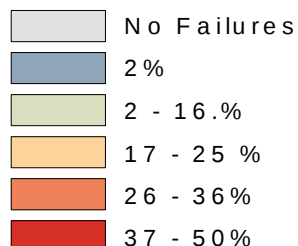
Overall the program had resulted in a 50% decrease in the failure rate since the program began. Further, when resources allowed us to do follow up compliance checks in areas with high failure rates we consistently saw lower failure rates and very often find a 0% failure rate. However, in 2007 we conducted this operation in 25 cities and towns where compliance checks were rarely conducted in the past, 507 licensed establishments were checked of which 63 failed. This statistic represents a 40% reduction in the failure rate since the project began. It also represents a 10% increase over 2006, which was caused by the lack of enforcement in small western Massachusetts towns in the past. Some of these towns recorded a 60% failure rate.

To correct this problem, in 2008 this agency, through HSD funding, conducted compliance checks in 107 municipalities across the commonwealth, with our primary focus in the western counties. There were 1575 licensed establishments checked, of which 209 failed. This represents an 87% success rate.



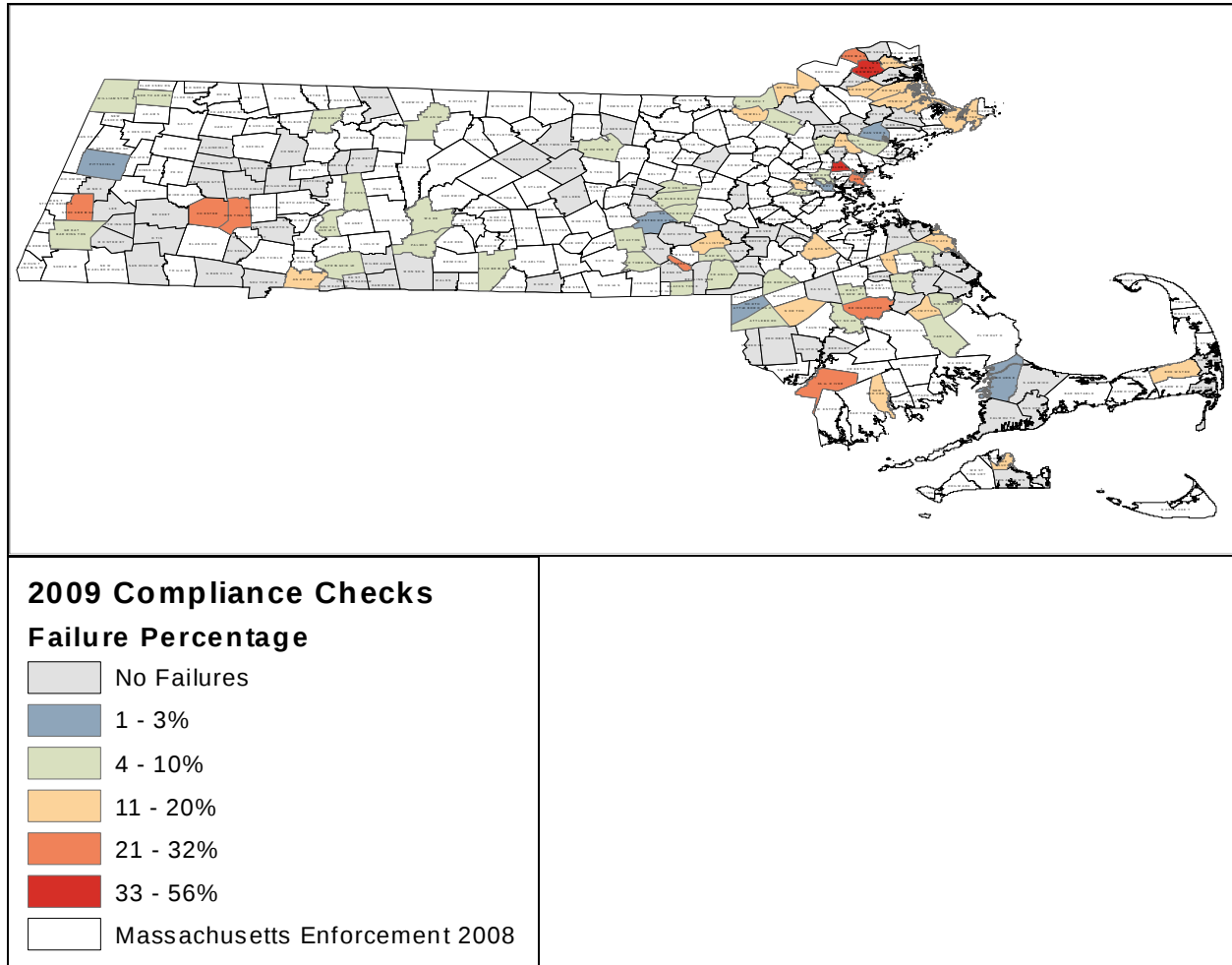
2008 Compliance Checks

Failure Percentage



 Massachusetts Enforcement 2008

In 2009, the Investigation and Enforcement Division conducted Compliance Checks in 125 municipalities across the commonwealth. There were 2044 licensed establishments checked, of which 109 failed.



This represents an outstanding increase in the success rate (95%) compared to last year and puts Massachusetts in front of the national average success rate of 84%. It supports our statement that consistent compliance check enforcement results in a higher and continuous success rate. The key will be repeating the compliance checks in the municipalities that had high failure rates. As stated above, past enforcement has shown that repetition will result in a higher success rate. In addition, with HSD support, we plan to start the compliance checks earlier in the year in order to gain greater coverage of municipalities.

Education of Local Law Enforcement

The Investigation and Enforcement Division works in a concerted effort with Massachusetts Police Academies and Local Police Departments to educate local and state law enforcement officers in the enforcement of the Massachusetts Liquor Control Act as well as False Identification and Fraudulent Document detection. This training enhances the prevention of underage drinking and drunk driving by developing local police department knowledge of and involvement in liquor law enforcement.

In 2009, the Investigation and Enforcement Division conducted Training Sessions for 270 Police Departments and 1081 Officers. We have been requested to conduct these trainings for several more departments and to return to the academies that we taught at this year.

Training

Massachusetts Criminal Justice Training Council Police In-Service Training

Investigators completed Massachusetts Training Council In-Service training at the Plymouth Police Academy that included training and certification in the following areas: CPR / First Responder; Criminal Procedure; Motor Vehicle Law; Domestic Violence; and Defensive Tactics. Defensive Tactics training included; Use of Force, Baton, OC and handcuffing techniques.

ABCC Annual In-Service Training

Investigators received annual in-service training in Licensed Premises Investigations, Constitutional Law, Field Contacts, Profiling, Arrest Procedures, Prisoner Transport, Booking Procedures, Juvenile Operations, Protective Custody, Criminal Complaints, Use of Force Policy, Minors in Possession of Alcohol, MGL §69 Procedures, Preliminary Breath Test Device, Interviews and Interrogations, Compliance Check Procedures, and Cops in Shops Procedures.

Massachusetts State Police Field Sobriety Training.

New England State Police Intelligence Network.

Investigators received training in Conspiracy Investigations and Courtroom Testimony.

Seminars

United States Justice Department's Office of Juvenile Justice and Delinquency Prevention and National Liquor Law Enforcement Association Conference

2009 Mothers Against Drunk Driving Youth in Action Summit.

The Investigative and Enforcement Division participated as advisors

Plymouth County Drug Education Summer Event

Investigators appeared at the Plymouth County Drug Education Summer Event to assist in the DARE summer camp program for south shore youth.

Massachusetts Association of Women in Law Enforcement

Massachusetts Package Store Association Conference

Investigators participated and provided educational information.

24th Drug & Alcohol Awareness Fair

Investigators participated in the 24th Drug & Alcohol Awareness Fair along with several south shore and statewide law enforcement and educational agencies