



*The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, MA 02114*

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THE ALCOHOLIC BEVERAGES CONTROL COMMISSION (“ABCC”) ADVISORY
REGARDING RENEWAL OF ANNUAL RETAIL LICENSES

Now that renewal season has begun, the ABCC wishes to remind the local licensing authorities of their obligation to ensure that only legally authorized individuals sign the renewal applications. **The renewal application must be signed DURING the month of NOVEMBER.**

The Commission's longstanding administrative practice acknowledges the last approved licensee's standing to sign the renewal application and allows all persons who have a disclosed and approved direct or indirect beneficial interest in the license to sign the renewal application.¹ In addition, the following individuals that have been disclosed and approved in writing by both the local licensing authorities and the ABCC may legally sign the renewal application:

- A **shareholder, director, or officer of a corporation, or**
- A **member or manager of a limited liability company (“LLC”), or**
- The **license manager.**²
- An **appointed trustee in bankruptcy** may exercise all authority conferred on such licensee until the termination thereof and must comply with the renewal provisions.³
- An **appointed administrator/executor** of the estate of a deceased licensee may exercise all authority conferred on such licensee until the termination thereof, including compliance with the renewal provisions.⁴
- A **pledgeholder** approved pursuant to the applicable provisions of M.G.L. c. 138, §23, who has filed the financing statement required and who has foreclosed on the pledge in compliance with the procedures established under Article 9 of the Uniform Commercial Code, codified at M.G.L. c. 106.⁵

A retail license "shall be automatically renewed for the next annual license period upon application **by the holder thereof** [emphasis added] during the month of November **and shall be automatically renewed...**provided that said license is of the same type as the expiring license and covers the same licensed premises. If the application does not meet the conditions hereunder it shall be treated as an application for a new license and all the procedures set forth under section 15A shall be applicable thereto."⁶

When a retail license is renewed in violation of §16A, or any other provision of chapter 138, the Commission must take action to revoke the license. As the Commission has acknowledged in many decisions, given the express language of M.G.L. c. 138, § 64, this severe action is mandatory and there is no other sanction available for the Commission to consider.⁷

As always, all licensees must ensure that they are in compliance with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by state law. Individuals with questions concerning this advisory may contact, Ralph Sacramone at 617-727-3040 x 731.

(Issued: November 8, 2012)

¹ M.G.L. Ch.138 §.15A; In Re: Jazzy Joe's, Inc., Gloucester (ABCC Decision dated July 8, 2009).

² In Re: Picanhas Restaurant Shop & Bar, Inc., Everett (ABCC Decision dated December 9, 2008).

³ M.G.L. c. 138, §§16A, 23; Zelman v. ABC, 335 Mass. 515 (1957).

⁴ M.G.L. c. 138, §§16A, 23.

⁵ This past administrative practice was grounded on the acknowledgement that a delinquent and defaulted debtor would have no incentive to exert any effort to preserve the license by timely filing the paperwork needed. In Re: Wexford Bridge Corp., Lawrence (ABCC Decision dated July 24, 2008)

⁶ M.G.L. c. 138, § 16A controls the process of renewal of annual retail licenses. In some instances a timely filed renewal application may still be rejected for cause by a local licensing authority. Piona v. Selectmen of Canton, 333 Mass. 510, 511, 131 N.E. 2d 766, 767 (1956); In Re: Atara LLC, Boston (ABCC Decision dated October 17, 2003).

⁷ Rigali v. Cahill, Hampden Superior Court C.A. No. 2008-00362, Memorandum And Order Dated July 22, 2009 (Veils, J.)(Where renewal of license was "in clear violation of the plain language of M.G.L. c. 138, § 16A, the ABCC was obligated to revoke the license pursuant to G.L.c.138, s.64."); See In Re: Margaret's Restaurant, Inc., Oxford MA (ABCC Decision dated July 12, 2005); In re: Pop's Cafe, Inc., Holyoke, MA (ABCC Decision dated, 2008). In Re: Mambo Nightclub, Inc., Lawrence (ABCC Decision dated August 10, 2010).