



Investigation and Enforcement Division

2021 Annual Report

Special Investigators of the Investigation and Enforcement Division are appointed by the Commission pursuant to Massachusetts General Laws Chapter 10 §72. Accordingly, 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.

Pursuant to this statutory mandate the Enforcement Division objectives include the following: 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 impaired drivers; 3) To prevent the sale of alcoholic beverages that are illegally imported or purchased from an illegal source and to prevent the tampering or dilution of alcoholic beverages; 4) To prevent illegal gambling on licensed premises; 5) To prevent the sale, delivery or use of illegal narcotics on licensed premises; 6) To prevent unlawful ownership of licensed establishments by individuals or criminal organizations; 7) To provide suppliers, wholesalers and retailers of the alcoholic beverage industry with a fair and even playing field to conduct their licensed business; 8) To prevent unlawful Inter-state sale and transportation of alcoholic beverages; 9) To ensure the lawful sale and delivery of wine by Direct Wine Shippers pursuant to MGL Chapter 138 §19F; and 10) To prevent unlawful Trade practices in the alcoholic beverage industry.

Reports on arrest data have established that seventy-five to eighty percent of violent crimes, such as assaults and domestic violence, are alcohol related. It is the overall goal of this Division to impact public safety and the quality of life in our communities through effective alcohol enforcement strategies to reduce alcohol-related crimes and traffic crashes. This Division has established effective enforcement programs to address alcohol-related problems throughout the commonwealth. These programs have received the following national recognition for their innovation and effectiveness: National Liquor Law Enforcement Association Award for enforcement efforts in Lawrence Massachusetts; National Liquor Law Enforcement Association Enforcement Agency of the Year Award; National Conference of State Liquor Administrators “Innovations in Health and Safety” Award; President’s Award from the National Chapter of Mothers Against Drunk Driving; Recognized as a National Success Story by the United States Justice Department; National Liquor Law Enforcement Association Agent of the Year.

COVID Enforcement

In 2021, Special Investigators of the Investigation and Enforcement Division continued their assigned duties in support of the Commonwealth's COVID Enforcement and Intervention Team, to address the worldwide COVID-19 pandemic in Massachusetts. This assignment began in August of 2020 and continued through May 29, 2021.

On January 4, 2021, Governor Baker announced that first responders would begin to receive doses of the COVID-19 vaccine on January 11, 2021. The following day, he warned that it was likely that the [highly contagious variant of COVID-19 first discovered in the United Kingdom](#) had made its way to Massachusetts, and urged state residents to "be very vigilant and careful and cautious about [their] physical engagement with other people". On January 17, the first case of the variant in Massachusetts was confirmed.

On March 1, 2021, Massachusetts entered Phase III, Step 2 of its reopening plan, removing capacity limits for restaurants and allowing live music performances to resume at limited capacity. On March 22, Massachusetts entered Phase IV, Step 1.

On April 30, 2021, the state relaxed its mask mandate to no longer require face coverings outside when able to remain six feet from others. Other requirements, such as wearing masks in indoor public spaces or at larger events, remained in effect.

On May 17, 2021, Governor Baker announced that all remaining COVID-19-related restrictions, including mask mandates, industry restrictions, and capacity and gathering limits, would be lifted on May 29. The state of emergency ended on June 15.

As of June 4, 2021, Massachusetts had the 15th-highest number of cases in the United States since the beginning, and the 29th-highest number of cases [per capita](#). It had the 11th-highest number of deaths due to the virus, and the third-highest number of deaths per capita, behind New York and New Jersey. There had been 707,723 total COVID-19 cases and 17,903 deaths among cases of COVID-19 in Massachusetts since the beginning of the pandemic.

From the very beginning, ABCC Special Investigators actively worked to support the Commonwealth's response to the COVID-19 public health emergency; ensuring that establishments were closed during the shutdown and that they were in compliance with the Safety Standards throughout the various Reopening Phases.

From August 11, 2020 through May 28, 2021, ABCC Special Investigators observed approximately 44,700 licensed business locations; of which, 11,112 (25%) were found to be closed. The rate of closure was consistently reduced, from 99% during the shutdown to 14%, as the data improved and restrictions were lightened. Regionally, it was observed that central and western Massachusetts municipalities were the most severely impacted, with Boston seeing significant losses due to business closures and the eastern suburbs being the least impacted.

Of the approximately 33,588 open locations observed; an estimated 33,040 (98%) were found to be in compliance; 548 were issued written or verbal warnings or were charged with operating in violation of the Executive Orders. The Chief Investigator's communications with Alcohol Law Enforcement (ALE) agencies in other states throughout the country, with strong COVID enforcement efforts, indicated comparable compliance rates.

From August 11, 2020 through May 28, 2021, the ABCC received and investigated 826 complaint referrals from DLS and DPH, as well as municipal police and health departments; 592 (72%) of the establishments were found to be in compliance; 160 (19%) were issued written or verbal warnings; an estimated 60 (7%) were found to be operating in violation of the Executive Orders; and 14 (2%) were filed as previously investigated.

Complaints

In 2021, there were 461 complaints filed with the Commission relative to, but not limited to, the sale of alcohol to underage or intoxicated individuals, illegal gambling activity, illegal alcoholic beverages, illegal narcotics activity and unlawful ownership; with 298 of the complaints filed being COVID related. Complaints are received primarily from the public, industry members, municipal and state police and state agencies.

Complaints	Total	LCA	Minors	SIP	Gambling	Narcotics	PSB	15A	Taxes
2012	525	215	95	82	43	5	26	1	58
2013	460	188	70	62	33	4	34	0	69
2014	344	133	70	40	30	4	46	0	21
2015	293	122	60	48	19	0	37	0	7
2016	298	145	59	45	26	2	21	0	0
2017	278	132	59	34	20	3	27	5	5
2018	349	168	78	46	21	1	34	0	1
2019	295	132	59	57	10	5	38	5	5
2020	720	110	24	12	5	1	14	0	1
2021	461	75	45	23	6	1	13	0	0

Liquor Control Act Violations

In 2021, the Enforcement Division conducted operations throughout the commonwealth, filing 95 reports detailing approximately 155 violations of the Liquor Control Act that included, but were not limited to, the sale of alcohol to underage or intoxicated individuals, illegal gambling, illegal alcoholic beverages, criminal ownership of licensed premises, and unlawful trade practices.

Violations	Total	Liquor Control Act	Sale to Minor	Sale to Intoxicated	Gambling	Narcotics	Alc Tampering	Ownership	Taxes	Trade
2012	498	96	174	10	12	3	152	5	46	0
2013	654	207	124	20	36	3	166	22	117	0
2014	249	29	114	12	12	7	20	10	43	0
2015	221	25	98	15	18	0	24	11	30	8
2016	290	18	218	3	35	0	4	3	9	1
2017	247	3	223	21	7	1	1	5	6	1
2018	273	17	209	9	9	0	16	4	8	1
2019	319	0	225	21	0	0	6	5	6	5
2020	123	12	28	0	1	0	1	0	1	0
2021	155	27	117	6	1	0	3	0	1	0

Data Driven Impaired Driving Prevention

Place of Last Drink (POLD) reports are filed with the Commission pursuant to Massachusetts General Laws Chapter 90 §24J, which 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 to the alcohol beverage control commission*”. In 2021 there were approximately 665 §24J reports filed with the Commission, which is approximately half of the standard annual rate and is believed to be the result of COVID-related court challenges.

The Enforcement Division utilizes this data to determine the bars that have been identified in the highest number of 24J reports and thus pose a greater risk to public safety. In addition to this data, information is received from police departments that can identify alcohol-related harm, on the roads and highways as well as other alcohol-related criminal activity, which appears to originate from specific licensed premises. Enforcement operations are scheduled accordingly and if a bar is found to serve alcohol to an intoxicated individual, Investigators charge the bar with MGL Chapter 138 §69 and arrange for safe transportation or protective custody for the individual. Division data indicates that this enforcement results in a dramatic reduction in the number of OUI arrests associated with bars that are subject to this enforcement.

The National Transportation Safety Board (NTSB) held hearings, where Chief Frederick Mahony testified on this program, demonstrating that the use of POLD data to guide enforcement efforts led to a reduction in OUI arrests associated with bars that were targeted for intervention. As a result, the NTSB stated in their Safety Recommendation to the National Highway Traffic Safety Administration (NHTSA), *“An essential part of any arrest or accident investigation involving an alcohol-impaired driver should include an assertive effort by law enforcement officers to determine the location where the impaired driver had been served alcohol. This information is useful to state alcohol law enforcement authorities conducting enforcement actions to deter future violations.”*

This year, with limited federal funding in comparison to previous pre-COVID years, we placed a strong focus on the highest 24J offenders, with repeated investigations where required, to obtain optimal results with the funding available. Therefore, the number of high visibility prevention shifts were reduced to allow for this targeted enforcement.

In 2021, the Enforcement Division, in coordination with NHTSA Impaired Driving Crackdowns, conducted these enforcement and high visibility operations to deter impaired driving throughout the commonwealth. Of the approximately 955 bars investigated, 7 charges and 21 warnings were issued pertaining to the sale of alcoholic beverages to an intoxicated person and 277 bars were the subject of high visibility interdiction type on-premise field training; 17 charges were issued pertaining to associated issues such as sale to a minor, overcrowding or open bar regulations.

Minimum Purchase Age Compliance Checks

The objective of this program 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, often in cooperation with the Community Groups and Police Departments.

Since 2009, when the Enforcement Division enhanced the compliance check program, it has conducted compliance checks at 25,151 licensed establishments, of which 914 failed (4%). This represents a 50% decrease in the failure rate since the program began in 2001 and places Massachusetts in front of the national average success rate of 84%.

Previous Compliance Check results include the following: 2018 – 134 municipalities, 1699 establishments checked with 45 violations (3%); 2017 – 254 municipalities, 3198 establishments checked with 96 violations (3%); 2016 – 264 municipalities, 3177 establishments checked with 114 violations (4%); 2015 – 210 municipalities, 2155 establishments checked with 35 violations (2%); 2014 - 230 municipalities, 2178 establishments checked with 63 violations (3%); 2013 - 251 municipalities, 2686 establishments checked with 72 violations (3%); 2012 - 236 municipalities, 2287 establishments checked with 78 violations (3%); 2011 - 201 municipalities, 1975 establishments checked with 135 violations (7%).

In 2019, the Enforcement Division conducted Compliance Checks in 224 municipalities across the commonwealth. There were 2756 licensed establishments checked, of which 96 failed (3%). Of these licensees, there were 1088 off-premise licensees checked of which 61 failed (6%); and 1668 on-premise licensees checked, of which 35 failed (2%).

These operations were placed on hold in 2020 and 2021 due to COVID closings, as well as to protect the health of the underage operatives and to ensure a fair compliance check for licensees. The program is scheduled to resume in the Spring of 2022.

Enhanced Liquor Enforcement Programs

Massachusetts has one of the lowest ratios of enforcement agents to licensees in the country. Accordingly, the Division has developed Enhanced Liquor Enforcement Programs that are scheduled to address specific geographic and seasonal challenges relating to underage drinking and impaired driving, as well as alcohol-related community problems.

Operation Safe Campus is conducted at bars and liquor stores in college communities over a 6-week period at the beginning of each school year; Operation Safe Prom and Graduation is conducted at liquor stores throughout the commonwealth over an 8-week period during May and June; Operation Safe Summer is conducted at bars and liquor stores in summer communities over a 6-week period during July and August and Operations Safe Holidays is conducted at liquor stores throughout the commonwealth from Thanksgiving through December 31st.

To encourage family involvement and intervention in addressing the problem of underage drinking, the Division maintains a parent notification program to inform parents, at the time of the incident, of the situation in which their child is involved. Investigators have found this intervention to be very effective and well received by parents.

In 2019 these programs produced the following results: 1226 minors in possession or transporting alcoholic beverages; 127 adults procuring alcohol for minors; 232 individuals in possession of false identification; with 337 cases of beer and 230 bottles of alcohol confiscated by Investigators, preventing delivery to approximately 3648 underage individuals.

In 2021 these programs were limited by continued closures, event cancelations and venue challenges, but produced the following results: 266 minors in possession or transporting alcoholic beverages; 46 adults procuring alcohol for minors; 81 individuals in possession of false identification; with 137 cases of beer and 132 bottles of alcohol confiscated by Investigators, preventing delivery to approximately 1868 underage individuals.

Since 2005 these programs have resulted in the following cumulative results: 11,210 minors in possession or transporting alcoholic beverages; 3477 adults procuring alcohol for minors; 1512 individuals in possession of false identification; and 5218 cases of beer and 4512 bottles of alcohol were confiscated, preventing delivery to approximately 71,424 underage individuals.

Delivery Investigations

The online sale and home delivery of alcoholic beverages increased dramatically, estimated at 300%, during the COVID-19 pandemic. The Enforcement Division has found that this delivery has opened up an avenue for underage individuals to order using apps and third-party websites and have the alcoholic beverages delivered to them in the streets surrounding college and other communities. In 2021, the Division initiated the dedication of significant resources to address this most dangerous problem. In December alone, Investigators found that one hundred percent of the deliveries approached and investigated were delivered to underage individuals, resulting in Investigators filing twenty-eight reports charging the seller and the transportation permit holder, accordingly.

Direct to Consumer (DtC) Investigations

In 2021, the Enforcement Division initiated minimum purchase age compliance checks for Direct Wine Shippers licensed pursuant to Massachusetts General Laws Chapter 138 §19F. To date, one hundred percent of the companies checked, accepted the order and the payment from a fifteen-year-old underage operative under the supervision of an Investigator. Approximately 37% of the deliveries were left at the door and none verified the age of the recipient. In 2022, the Division plans to allocate resources accordingly and transition from a warning protocol to a hearing process.

Interstate and International Investigations

Massachusetts General Laws Chapter 138 §18 provides in part that; *In order to ensure the necessary control of traffic in alcoholic beverages for the preservation of the public peace and order, the shipment of such beverages into the commonwealth, except as provided in this section and sections 19F and 19G, is hereby prohibited;* and §2 provides that *No person shall manufacture, with intent to sell, sell or expose or keep for sale, store, transport, import or export alcoholic beverages or alcohol, except as authorized by this chapter.*

Social media and digital platforms have become interwoven into the fabric of our society. Consumers have become increasingly dependent on the broad access to goods for sale through these mediums. Unfortunately, the near-unlimited access to goods has increasingly exposed consumers, including minors, to unlicensed sales of alcohol and counterfeit products.

In recent years, the Enforcement Division has initiated investigations into the unlawful sale and delivery of alcoholic beverages by various retail outlets and white label eCommerce platforms located in states other than Massachusetts and not licensed pursuant to the Massachusetts Liquor Control Act. These unlawful sales impact not only the excise revenue of the Commonwealth, but the public safety of its citizens; of the sales and deliveries investigated, 34% of the deliveries were left at the door and only 5% verified the age of the recipient. In 2021, The Division initiated 69 investigations, of which, 37 resulted in violations of the Massachusetts Liquor Control Act.

In addition, Investigators have uncovered unlawful international sales and deliveries that cause concern for the integrity and safety of the product, whereas there have been significant reports of counterfeit alcohol products being sold from outside of the US alcohol regulatory system. In 2022, the Division plans to allocate resources accordingly to ensure compliance with the Massachusetts Liquor Control Act.

Industry Investigations

The Enforcement Division conducts specialized investigations into the wholesale and supplier levels of the alcohol industry. These investigations cover price discrimination, credit compliance, unlawful inducement, and critical Tied-House compliance.

Source Investigations

Source Investigations are conducted to investigate alcohol-related motor vehicle accidents that result in death or serious bodily injury and alcohol-related incidents that involve persons under the legal age; to discover the source of the alcoholic beverages consumed by the individual(s) involved in the incident and investigate whether the source of the alcohol violated Massachusetts law. By holding accountable licensed establishments that provide alcohol to minors or over serve their patrons, our goal is to see a reduction in the number of licensees selling alcohol to minors and intoxicated patrons – and, ultimately, fewer incidents and crashes in Massachusetts.

Casino Enforcement

Massachusetts General Laws Chapter 10 §72A provides that *the commissioner of the alcoholic beverages control commission shall establish a gaming liquor enforcement unit whose responsibilities shall include enforcing, regulating and controlling the distribution of alcoholic beverages in a gaming establishment. The gaming liquor enforcement unit shall work in conjunction and cooperation with the investigations and enforcement bureau within the Massachusetts gaming commission established in chapter 23K.* In 2021 the Division conducted approximately 203 enforcement shifts at the Encore, MGM and Plainridge casinos.

Illegal Gambling Enforcement

The Enforcement Division conducts enforcement operations to prevent illegal gambling, primarily through the use of electronic video devices, at bars throughout the Commonwealth.

Illegal Ownership - Control Enforcement

In 2021, the Enforcement Division conducted several investigations into unlawful ownership or control over bars and liquor stores throughout the commonwealth. Investigators endeavor to ensure that licensees have disclosed all persons who have a direct or indirect financial or beneficial interest in a license, and to prevent individuals or organizations from controlling a licensed business for unlawful purposes.

Cooperative Enforcement Operations with Municipal and State Law Enforcement

The Enforcement Division works in cooperation with municipal and state law enforcement agencies in order to obtain optimal enforcement coverage. Most often these efforts are generated through requests for assistance from municipal police chiefs who have problematic licensees in their communities. In 2021, the results of these enforcement operations included: 214 minors in possession of alcohol; 38 furnishing alcohol to minors; numerous medical or intoxicated assists as well as the seizure of 55 bottles of alcohol and 68 cases of beer, preventing delivery to approximately 822 underage individuals.

Training of Municipal and State Law Enforcement

The Enforcement Division offers training on the Liquor Control Act and Commission Regulations for municipal and state law enforcement agencies, as well as on Interstate and Trade investigations for other state alcohol enforcement agencies and national organizations.

License Application Investigations

In 2021, the Division completed 3146 investigations of license applicants to ensure compliance with the Liquor Control Act and to ensure satisfactory character and fitness of the applicants. In addition to retail license applications, investigations are conducted into applications for Wholesale, Storage Warehouse, Direct Wine Shippers, Express Delivery, Catering, Brewery, Winery and Distillery licenses.



