

**ALCOHOLIC BEVERAGES CONTROL COMMISSION
FREQUENTLY ASKED QUESTIONS
SPRING 2018**

The Alcoholic Beverages Control Commission (“ABCC”) is charged with the supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages. The ABCC issues the following Frequently Asked Questions to provide guidance to Local Licensing Authorities (“LLAs”), members of the industry, and the public at large, on some of the questions most often asked of the ABCC. Nothing in this document should be considered legal advice but instead should be used as a tool to assist individuals in navigating the sometimes-complicated alcohol laws of the Commonwealth of Massachusetts.

This document is divided into two sections: (1) questions related to the retail alcoholic beverages industry; and (2) questions related to the state alcoholic beverages industry.

Please note that anywhere a statute is cited by section number (“§”), it is referring to the Massachusetts Liquor Control Act, M.G.L. c. 138, unless otherwise noted.

STATE LICENSES

49. Does the ABCC issue licenses directly to any segments of the alcoholic beverages industry?

Yes. The ABCC is the sole issuing authority for all licenses other than retail licenses and certain “one day” licenses. This includes licensing manufacturers (including wineries, breweries, and distilleries), wholesalers/importers, railroads, airlines, ships, ship chandlers and caterers. It is the sole issuing authority of liquor transportation permits for express or trucking companies, ships, railroads, caterers, and airlines. It also issues permits to salespersons employed by wholesalers and importers, brokers, farmer-wineries, farmer distillers and farmer-breweries.

Farmer-Series Licenses

50. Can a farmer-winery sell their wines at a fair or farmers’ market?

Under § 15F, an LLA may grant a license to a farmer-winery, licensed under § 19B or licensed in another state, to sell wine for consumption at an indoor or outdoor agricultural event, as sanctioned by the Massachusetts Department of Agriculture, as long as the requirements listed under § 15F are met. A licensee under this section may also offer samples of wine to prospective customers at the agricultural event without charge.

Agricultural events are sanctioned by the Department of Agriculture and generally include farmers’ markets and agricultural fairs. The farmer-winery/applicant must submit documentation to the LLA evidencing that the event is sanctioned by the Massachusetts Dept. of Agriculture as an “agricultural event.” This type of license is issued at the sole discretion of the LLA and does not require the approval of the ABCC, but cannot overlap any area or premises that is already covered by an existing license.

The ABCC has created an application for a license to sell wine at a farmers' market. Please refer to the ABCC's June 10, 2011 Advisory for more information.

51. What is the difference between a Pub Brewery and Farmer Brewery?

A farmer-brewery license permits a licensee to produce malt beverages and then sell them (a) at wholesale to certain other licensees; (b) at wholesale to any person in any state or foreign country; and (c) at retail by the bottle to consumers for consumption off the brewery premises.

A pub-brewery license, on the other hand, authorizes a licensee to produce malt beverages and sell them at retail to consumers for consumption on the brewery premises.

52. Can I have my brewery, distillery, and winery on the same premises?

If you would like to have a farmer-brewery, a farmer-distillery, and a farmer-winery at the same location, each business must be on separate and distinct parts of the property. In other words, each license would list a different portion of the property as being only for a brewery, distillery, or winery. The premises for each license cannot overlap. However, a licensee that owns more than one type of farmer-series license can apply for a § 19H pouring permit that will permit any and all alcohol produced by it (or for it and sold under its brand name) to be sold for on-premises consumption on any of its farmer-series premises and vineyards/farmlands, so long as the licensee's vineyards/farmlands are operated as appurtenant and contiguous to each other. Please see the ABCC's August 11, 2016, Advisory addressing this permit type.

53. I would like to produce cider. What type of license should I apply for?

Cider is considered wine according to §§ 1 & 19B, so you would apply for a farmer winery license.

54. What permit do I need to sell my beer/spirits at a Farmer's Market?

Malt beverages and spirits may not be sold at farmers' markets. Under § 15F, only wine produced by farmer-wineries may be sold at farmers' markets. A special license must be obtained for a farmer-winery to sell wines at farmers' markets, and the application can be found on the ABCC website.

The ABCC has created an application for a license to sell wine at a farmers' market. Please refer to the ABCC's June 10, 2011, Advisory for more information.

55. What is the difference between a Farmer Series license (Brewery/Winery/Distillery) and a Manufacturer's license?

A farmer-brewery license is a license authorizing producing malt beverages from the fermentation of malt with or without cereal grains or fermentable sugars, or of hops, provided that said hops or cereal grains are grown by the farmer-brewer and to sell at wholesale to licensed manufacturers, wholesalers, farmer-brewers, and licensed retailers

in Massachusetts, at wholesale to other buyers specified in state law, and at retail by the bottle for consumption off the premises.

A farmer-winery license is a license authorizing producing, rectifying, blending or fortifying wine from fruits, flowers, herbs or vegetables and sell to licensed wholesalers in Massachusetts, to persons in a state or territory in which the importation and sale of wine is not prohibited by law at retail or wholesale, and at wholesale to a person in any foreign country.

A farmer-distillery license is a license authorizing producing, manufacturing or distilling of distilled spirits by the person who grows fruits, flowers, herbs, vegetables, cereal grains or hops for the purpose of producing alcoholic beverages. A farmer-distillery may sell at wholesale to licensed farmer-distilleries, manufacturers, wholesalers, and licensed retailers in Massachusetts, at wholesale to other buyers specified in state law, and at retail by the bottle for consumption off the premises.

A manufacturer's license authorizes the manufacturing, rectifying or blending of all kinds of alcoholic beverages (or wine and malt beverages) and sale of those beverages manufactured, rectified or blended to other licensed manufacturers, wholesalers and retailers in Massachusetts.

CERTIFICATES OF COMPLIANCE

56. Can an out-of-state supplier/manufacturer (a Certificate of Compliance holder) sell directly to a retailer?

No. An out-of-state supplier/manufacturer (a Certificate of Compliance holder under § 18B) can only sell their alcoholic beverages to licensed Massachusetts wholesalers.

57. Does Massachusetts require brand registration?

Massachusetts does not require brand registration.

DIRECT SHIPMENT OF ALCOHOL TO CONSUMERS

58. Can out-of-state suppliers ship beer or spirits directly to Massachusetts consumers?

No. Only out-of-state wineries may obtain a direct shipment license under § 19F that permits them to ship directly to Massachusetts consumers. In-state farmer-wineries licensed under § 19B may also apply for this license.

Please see the ABCC's November 21, 2014 Advisory regarding direct wine shipping for further details.

59. Can a direct shipment license holder apply for a salesman permit?

No, direct wine shipment licensees cannot obtain salesman permits.

CATERERS

60. As a caterer licensed under § 12C, who do I need to communicate with before catering events?

48 hours before the event, the caterer must provide written notice of the event to the local police chief and Local Licensing Authority. This needs to include a copy of your § 12C caterer's license, a copy of the liquor liability insurance, and emergency contact information for the manager of the § 12C license.

61. Can I buy my alcohol from a package store?

No, caterers must purchase their product from a licensed Massachusetts wholesaler.

SHIPS

62. Are there regulations on the serving of alcoholic beverages on a ship?

Yes. This regulation is found in 204 CMR 19.00. These regulations include general restrictions such as:

- 1) All alcoholic beverages shall only be sold or delivered between 8:00 a.m. and 12:30 a.m. on Mondays through Saturdays and between 11:00 a.m. and 12:30 a.m. on Sundays.
- 2) No alcoholic beverages shall be sold or delivered to passengers at dockside or prior to casting off, unless the ABCC gives specific permission in writing.
- 3) On trips of more than two hours, alcoholic beverages shall not be sold or delivered to passengers within thirty minutes before the ship docks.

63. Are passengers restricted in the number of drinks they may possess at any one time on a licensed ship?

Yes. No more than two drinks shall be sold, delivered or in possession of any one passenger at any one time. The "happy hour" regulations, 204 CMR 4.00, apply to ships.

64. Can passengers bring their own alcoholic beverages aboard a licensed ship cruising Boston Harbor?

No. Passengers are prohibited from bringing on board ship their own alcoholic beverages for their own consumption. Passengers may only consume alcoholic beverages aboard a ship that are sold by the ship licensee.

65. May a captain terminate service of alcoholic beverages aboard ship whenever he chooses?

Yes. None of the ABCC's regulations limit in any way the power and authority of the Captain of a ship under the Law of the Sea. Therefore, he or she may at any time order the termination of service of alcoholic beverages aboard ship.

66. May a licensed ship owner ask a beer supplier to sponsor a cruise?

No. ABCC Regulation 204 CMR 19.11 states that no “manufacturer, importer, wholesaler, certificate of compliance holder or other Massachusetts licensee shall directly or indirectly sponsor, promote or advertise or use its name or the trade or brand name of any alcoholic beverage in connection with any cruise or event, public or private, aboard a ship. No ship shall allow or accept funds for such sponsorship, promotion or advertisement.”

67. Can a licensed ship chandler buy liquor from a package store to fulfill an emergency call from a captain out at sea who is running short of liquor and needs an immediate delivery?

No. A licensed ship chandler may not purchase alcohol from a package store to fulfill a ship's need. Ship chandlers may only purchase alcohol from an "authorized source" i.e. a Massachusetts wholesaler (licensed under § 18), a farmer-winery (licensed under § 19B), a farmer-brewery (licensed under § 19C), or a farmer-distillery (licensed under § 19E).

EXPRESS TRANSPORTATION

68. Is there a one-day permit for one-time shipments?

There is no one-day permit for one-time shipments. The express transportation permit is valid for a calendar year, expiring on December 31st of the given year.

69. Do I need to provide the vehicle registration for each vehicle?

The ABCC does not require vehicle registration information for the vehicles you wish to permit.

70. How much is an express transportation permit?

The master fee is \$150.00 and the fee for each certified copy is \$50.00. If, for example, you want one permit, the total fee would be \$200.00.

TRANSPORTATION AND DELIVERY

71. Can a retailer get a transportation permit to transfer product from one package store to another?

No. The product delivered by the wholesaler must stay on the premises of the package store that ordered the alcoholic beverages.

BROKERS

72. Do I need a license to transport samples?

A broker cannot transport samples. However, a broker can hire a salesman who, when licensed, may transport samples.

73. Can I solicit orders from retailers or at events?

A broker cannot sell any alcohol at retail; a broker may only sell to wholesalers.

74. What is “soliciting orders”? Do I need a broker license?

To solicit orders, a broker’s license issued under Section 18A of Chapter 138 is required. Solicitation is any direct or indirect request for an order for alcoholic beverages and/or alcohol. This includes:

- 1) any oral request that is made in person, by telephone, radio or television or other advertising or communications media;
- 2) any written or otherwise recorded or published request that is mailed, sent, delivered, circulated, distributed, posted in a public place, or advertised or communicated by press, telegraph, television or other media;
- 3) any sale of, offer or attempt to sell, any advertisement, advertising space, sponsorship, book, card, chance, coupon, device, food, magazine, merchandise, newspaper, subscription, ticket or other service or tangible good, thing or item of value; or
- 4) any announcement requesting the public to attend an appeal, assemblage, athletic or competitive event, carnival, circus, concert, contest, dance, entertainment, exhibition, exposition, game, lecture, meal, party, show, social gathering or other performance or event of any kind.

SALESMEN

75. What is acceptable for proof of Massachusetts Residency?

The following are acceptable forms of proof of Massachusetts residency:

- 1) Current Massachusetts learner’s permit, MA driver's license, or ID card;
- 2) A current utility bill (gas, electric, telephone or cable) in your name sent to you at your Massachusetts address dated within the previous 30 days. The bill may be one mailed to you or an online bill that you printed out; and
- 3) Home mortgage, lease, or loan contracts with the customer's name, residential address, and signature (dated within 12 months of application).

76. Do I need to be a US citizen to be a salesman?

No. There is no requirement that you be a US citizen to be licensed as a salesman under Section 19A.

77. What are the guidelines regarding sampling at package stores?

The guidelines can be found in § 15.

SPECIAL PERMITS

78. What is the limit for household effects?

Should you want to transport alcohol within Massachusetts for your own use and use of your family and guests without a license or permit, you may transport at any one time, up to twenty gallons of malt beverages, three gallons or any other alcoholic beverage, or one gallon of distilled spirits.

Should you wish to import your own personal supply of alcohol into Massachusetts for personal use and not for resale, you must apply for a permit under Section 22A of Chapter 138. There is no limit on the amount of personally owned alcohol you may import with this permit.

79. What if I don't have a Massachusetts address yet?

If you do not yet have a Massachusetts address and want to bring in your personal collection of alcohol, please write a letter to the Commission explaining your situation and the Commission will handle each request on a case-by-case basis.

80. Who can I sell my alcohol to once I get a liquidation permit?

When a retail licensee (package store or restaurant/bar) is closing, the licensee can apply for a special liquidation permit from the ABCC in order to sell its inventory. Once the permit is obtained from the ABCC, the licensee can sell its alcohol to any other retail licensee (package store or restaurant/bar). The licensee can also return its inventory to its wholesalers. The permit application can be found on the ABCC's website.