



*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”) FAQ’s FOR THE 12C
CATERER’S LICENSE**

The ABCC is pleased to announce that the new §12C Caterer’s License application has been approved and posted on the ABCC website (<http://www.mass.gov/abcc/forms.htm>). The ABCC is accepting completed forms for investigation and consideration for approval. No application will be approved prior to October 31, 2012, the effective date of the statute.

The ABCC has received a number of questions regarding this new license type and is issuing this guidance to assist businesses interested in pursuing this license. .

Q: What is the new caterer’s license?

A: The Caterer’s License is an on-premises, **state issued** alcoholic beverages, which allows a caterer to sell alcoholic beverages at private events (never at the caterer’s principal place of business) for no more than five hours in a city or town that permits on-premises licensees under M.G.L. c. 138, §12 (i.e. “wet” towns). Licensed Caterer’s cannot sell or deliver alcoholic beverages at events which occur in a licensed premises, i.e. a restaurant, hotel, club, etc.

In addition, the licensed caterer must:

- Purchase its inventory of alcoholic beverages from licensed wholesalers
- Maintain liquor liability insurance in a minimum amount of \$250,000.00/\$500,000.00
- Only permit individuals who have been certified by a nationally recognized alcoholic beverages server training program to serve alcoholic beverages
- At least 48 hours before any private event:
 - (a) notify the police chief and the local licensing authority that the licensed caterer will be serving alcoholic beverages in the city/town;
 - (b) provide a copy of the caterer’s license to the police chief and the local licensing authority;
 - (c) provide proof of insurance to the police chief and the local licensing authority; and
 - (d) provide an emergency contact number for the license manager to the police chief and the local licensing authority.

Q: How will these licenses be granted?

A: The 12C Caterer’s License is a **state-issued** alcoholic beverages license. As such, the ABCC is the sole agency with the authority and responsibility to issue these licenses. The ABCC has created an application which is available on the ABCC website. The application contains the standards and requirements to obtain a 12C caterer’s license.

Q: Who may hold a caterer’s license?

A: The ABCC has determined that to qualify as “an operator of a catering business”, an applicant must hold a Food Service Permit issued by the Board of Health in the city/town where the caterer wishes to

locate its business and have the 12C license in effect. The municipal Board of Health also oversees these businesses, but only for the issuance of this required Food Service Permit.

Q: What type of premises (as the principal place of business) qualifies for a caterer's license?

A: The Applicant must demonstrate that:

- it has the legal right to occupy the premises; and
- the premises is a fixed structure that is fastened to the ground; and
- the premises is secure; and
- the premises has electricity to protect the integrity of the product.

Q: What is "a private event that is not open to the public"?

A: A "private event that is not open to the public" for purposes of a caterer's 12C license is a **private event** which:

- a) has a host; and,
- b) has restricted access to invited guests only; and
- c) was not publicly advertised.

In judging what is "a private event that is not open to the public", the ABCC will be guided by its analysis in prior decisions determining what is a "private function not open to the public" as used in the ABCC's so-called "Happy Hour" Regulation (204 CMR 4.00, et seq.)

(www.mass.gov/abcc/pdf/HAPPYHOUR2009.pdf)

Q: Will a city or town have control over which caterer uses a license within their district?

A: No, once an entity has a caterer's license, the caterer may use that license in any premises located in a city or town wherein the granting of licenses under §12 has been authorized by that city or town (i.e. the town is "wet").

Q: If someone is granted a license in Fitchburg are they allowed to use it in Leominster?

A: Yes. Since both Fitchburg and Leominster have authorized the granting of §12 licenses, a licensed caterer with a business located in Fitchburg, can exercise its license in Leominster, and vice versa.

Q: When the 48 hour notice is given, do the local licensing authorities have the power to say no to an event?

A: No. The caterer can use that license in any premises located in a city or town wherein the granting of licenses under §12 has been authorized by that city or town.

Q: Do the local licensing authorities lose control over who has liquor licenses in their town?

A: No. The local licensing authority retains full and complete authority over the decision whether to grant a license under §12, §15 or §14.

Q: Currently there is a yearly limit on the number of special licenses (i.e. "one-day" liquor licenses one person can apply for and receive. Does this law allow businesses to call themselves "caterers" and circumvent the system?

A: No. The ABCC regulation (204 CMR 7.04) that limits the number of days an individual can hold a special license annually does not create a method which allows businesses to circumvent the system. A person who is selling alcoholic beverages must have a license issued pursuant to chapter 138 of the General Laws. If the sales are occurring at a location that is not covered by any existing annual or seasonal license or any special license and those sales are at "a private event that is not open to the public", then a caterer's 12C license is sufficient. However, if the sale of alcoholic beverages is occurring at any event that is open to the public, then the caterer's 12C license is insufficient and does NOT authorize the sale of alcoholic beverages.

In order for an individual or entity to sell alcoholic beverages at an event that is open to the public, and at a location that is not covered by any existing annual or seasonal license, the seller must obtain a §14 special license (i.e. a “one-day” license) from the local licensing authorities.

Q: Do the new caterer licenses add to the current quota for a city/town or are they in addition to that?

A: No. The 12C caterer’s licenses do NOT affect the quota for licenses available under section 12 in any city/town. The 12C caterer’s license is issued without regard to the population-based quota for §12 licenses.

Q: Do the local licensing authorities need to require the caterer to show proof from the owner of the property that the caterer has the right to be on the property and if so how do we go about doing this?

A: No. Neither the state law (§12C) nor the ABCC require a caterer licensed under 12C to show proof that the caterer has a right to be on the property where a private event is to be held and catered.

Q: The police are concerned with security and the 48 hour timeframe required for notice. For example, if a caterer decides to hold an event with 500 people and they inform the police 48 hours before the event but say it is a holiday weekend (like New Year’s Eve) and there are no more police details available but the police think there should be security at the event, what can the local licensing authority do at that point with such short notice?

A: The municipal police retain their existing law enforcement authority over the owner of the property and the host of the private event. The attorney for the city/town should be consulted for advice on the scope of this law enforcement authority.

Q: What can a caterer do with a 12C caterer’s license?

A: The holder of a 12C caterer’s license may sell alcoholic beverages at private events (never at the caterer’s principal place of business) for no more than five hours in a city or town that allows on-premises licensees under M.G.L. c. 138, §12. The 12C licensed caterer may also store the alcoholic beverages in its location licensed under section 12C and transport alcoholic beverages from its 12C licensed location to the location of the private event being catered and return any unconsumed alcoholic beverages to its inventory stored at its 12C licensed location. **Licensed caterers are prohibited from selling or delivering alcoholic beverages at events which occur in a licensed premises, i.e. a restaurant, hotel, club, etc.**

Q: I have six events happening on the same day at six different locations. Do I need six caterer’s licenses? How many vehicles can I use to transport the alcoholic beverages to my events that I cater?

A: You only need one caterer’s license issued by the ABCC under §12C of chapter 138 of the General Laws to sell alcoholic beverage at any private event in any city or town in Massachusetts that allows on-premises licensees under M.G.L. c. 138, §12. BUT every vehicle that is transporting alcoholic beverages must have in the vehicle, to be produced upon demand, a transportation permit that is also issued by the ABCC. While the caterer licensed under §12C can cater six private events at six different locations on the same day with only one §12C license, it needs a transportation permit in each vehicle that is transporting alcoholic beverages to the six locations. It is a business choice of the 12C licensed caterer whether to do this with one vehicle or as many as six vehicles.

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.

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