



*The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Chelsea, MA 02150*

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ALCOHOLIC BEVERAGES CONTROL COMMISSION

FISCAL YEAR 2018 ANNUAL REPORT

The Alcoholic Beverages Control Commission (the “ABCC” or “Commission”) helps safeguard the people of Massachusetts against a wide variety of public safety threats that can arise from the illegal use of alcoholic beverages, such as underage drinking and service to intoxicated persons. The ABCC has prevented thousands of underage individuals from possessing or transporting alcoholic beverages, thousands of adults from unlawfully procuring alcohol for these underage individuals and has confiscated false identification from hundreds of individuals. The ABCC has repeatedly received national awards and recognition for innovation and effectiveness.

Over the past several years, the ABCC has concentrated on achieving several goals, including:

- streamlining the application and licensing process;
- enhancing transparency for all stakeholders;
- increasing communication and collaboration with all municipalities;
- building strong relationships with other agencies; and
- utilizing technology to assist with limited resources.

In fiscal year 2018, the Commission generated approximately \$4,933,826.46 in revenue for the Commonwealth. The ABCC also assisted the Department of Unemployment Assistance, the Department of Industrial Accidents, the Massachusetts Lottery, and the Department of Revenue in collecting \$5,700,000.00 in back tax payments and penalties. These results were achieved with an annual budget of \$2,438,091.00, twenty-eight employees, and the fifth lowest ratio of enforcement agents to licensees in the country.

In accordance with the provisions of Section 71 of Chapter 10 of the General Laws, as amended, we have the honor to produce the annual report of the Alcoholic Beverages Control Commission detailing the conduct and condition of traffic in alcoholic beverages during the **fiscal year ending June 30, 2018**. Below please find a statement of the income generated by fees for licenses and permits issued by the Commission under Chapter 138 of the General Laws, as amended. The report includes the number and type of all alcoholic beverages licenses issued in **calendar year 2017**.

Financial Statement:

**Summary of Income Received in Fiscal Year 2018 from Fees for Licenses and Permits
Issued by the Commission under Chapter 138 of the General Laws**

Manufacturers' License Fees	§19, all alcohol	\$316,667
	§19, wine and malt beverages	
	§19E, distilleries	
	§19C, breweries	
	§19B, wineries	
	§19D, pub brewery	
	§19F, winery shipment	
Wholesalers' and Importers' License Fees	§18, all alcoholic beverages	\$739,828
	§18, wine and malt beverages	
	§18, sacramental wines	
Retail Alcohol Application Fees	§12, on-premises	\$646,947
	§15, off-premises	
	Additional Package Store	
Agents, Brokers' or Solicitors License Fees	§18A	\$254,300
Railroad License Fees	§13, railroad master	\$5,450
	§13, railroad cars	
	§22, railroad cargo	
Airplane License Fees	§13, airline master	\$32,600
	§13, airline flights	
	§22, airline cargo	
Ship License Fees	§13, ship master	\$73,650
	§13, ship chandler	
	§22, ship cargo	
Commercial License Alcohol Fees	§76	\$2,500
Special Permit License Fees	§22A, import household effects/gifts	\$27,438
	charity wine	
	§22A, license inventory liquidation	
	§22A Consumer Research Permits	
Storage Permit Fees	§20, bonded	\$68,098
	§20A, public	
	§20, storage	
	§Registration Certificate of Compliance	
Transportation Permit Fees	§22, transportation and delivery	\$724,736
	§22, express company permits	
Salesman Permit Fees	§19A	\$874,222
Caterer's License	§12C	\$158,500
Certificates of Compliance Fees	§18B	\$856,144
Fine in Lieu of Suspension Fees		\$135,562.44
Miscellaneous Income		\$17,193
Total Receipts		\$4,933,835.46

Additional Income to the Commonwealth: As stated previously, in fiscal year 2018, with the Commission's assistance, the Departments of Unemployment Assistance (DUA) and Revenue (DOR) collected taxes from delinquent licensees in the amount of \$5,700,000.00 from Massachusetts alcoholic beverages licensees.

Alcoholic Beverages Licenses & Permits Issued For Calendar Year 2017:

Type	# Issued	Category
Manufacturers' License	3	§19, all alcohol
	3	§19, wine and malt beverages
	30	§19E, distilleries
	130	§19C, breweries
	94	§19B, wineries
	31	§19D, pub brewery
	1062	§19F, winery shipment
Wholesalers' and Importers' License	79	§18, all alcoholic beverages
	84	§18, wine and malt beverages
	4	§18, sacramental wines
Retail Alcohol License	9,621	§12, on-premises
	3,223	§15, off-premises
	32	Additional Package Store
Agents,' Brokers' or Solicitors License	73	§18A
Railroad License	4	§13, railroad master
	86	§13, railroad cars
	0	§22, railroad cargo
Airplane License	14	§13, airline master
	605	§13, airline flights
	2	§22, airline cargo
Ship License	135	§13, ship master
	1	§13, ship Chandler
	0	§22, ship cargo
Commercial License Alcohol	3	§76
Special Permit License	204	§22A, import household
	106	charity wine
	21	§22A, license inventory
	13	§22A Consumer Research
Storage Permit	0	§20, bonded
	24	§20A, public
	23	§20, storage
Transportation Permit	5,018	§22, transportation and delivery
	7,803	§22, express company permits
Salesman Permit	2,375	§19A
Certificates of Compliance	2,800	§18B
Caterer's Section 12C License	75	§12C

Total Licenses, Permits and Certificates Active in 2017: 33,781

Commission Hearings:

The ABCC conducts hearings for charges filed by Commission Investigators; license applications; licensees that are delinquent in taxes due DOR, DUA or lottery proceeds; industry franchise cases; and administrative appeals for licensees aggrieved by a decision of the local licensing authorities. The Commission scheduled 417 and conducted 248 hearings in calendar year 2017. Below are the hearing types.

Hearing Type	
Violation	177
Informational (license applications)	31
Appeals	21
Tax /Lottery	1
Public Hearing	1
25E	18
Withdrawn	28
Continued	141

Investigation and Enforcement Division:

Special Investigators of the Investigation and Enforcement Division are appointed by the Commission pursuant to M.G.L. c. 10 § 72. Accordingly, Investigators are authorized and directed, pursuant to M.G.L. c. 138, § 56, to make all needful and appropriate investigations to enforce the Liquor Control Act.

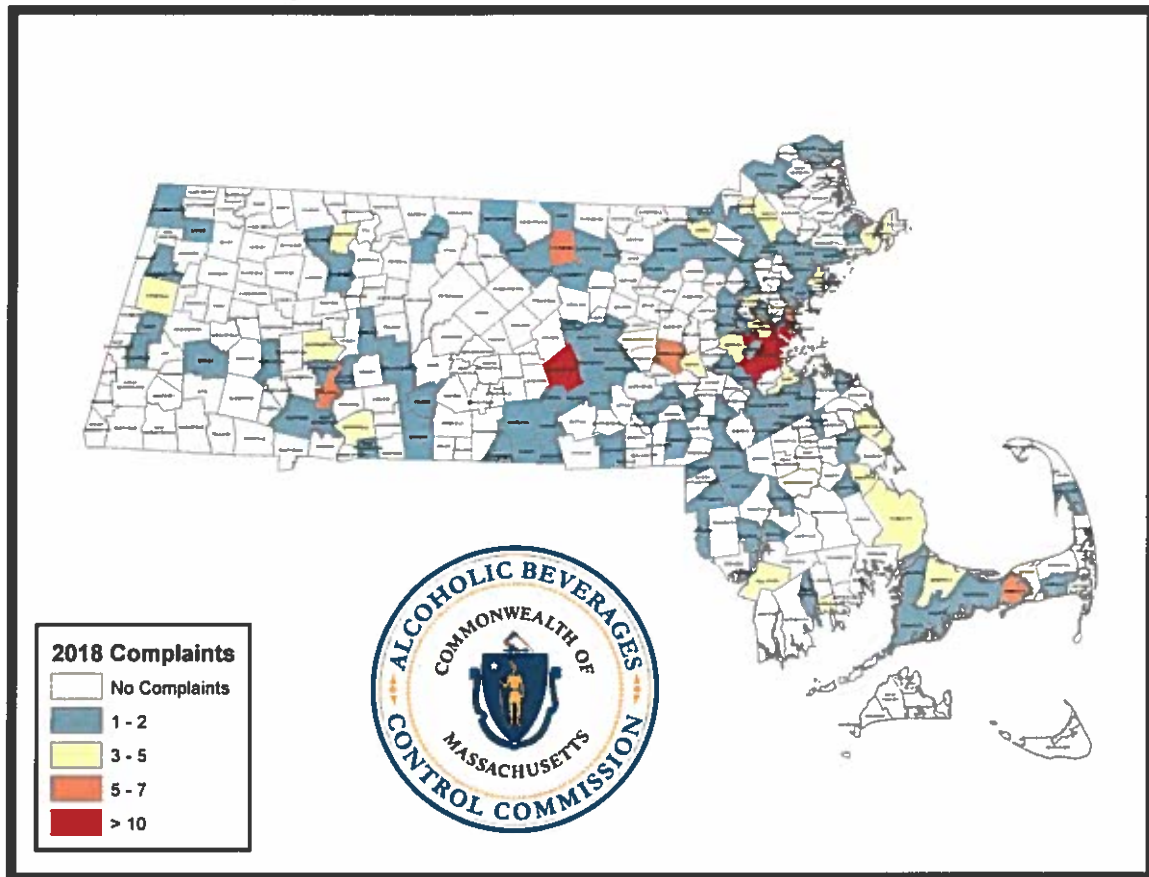
Pursuant to this statutory mandate, the Enforcement Division objectives include the following: 1) prevent the sale or delivery of alcoholic beverages to underage individuals; 2) prevent the sale or delivery of alcoholic beverages to intoxicated individuals and potential impaired drivers; 3) prevent the 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) prevent illegal gambling on licensed premises; 5) prevent the sale, delivery or use of illegal narcotics on licensed premises; 6) prevent unlawful ownership of licensed establishments by individuals or criminal organizations; 7) provide suppliers, wholesalers and retailers of the alcoholic beverage industry with a fair and even playing field to conduct their licensed business; 8) prevent unlawful inter-state sale and transportation of alcoholic beverages; 9) ensure the lawful sale and delivery of wine by Direct Wine Shippers pursuant to M.G.L. c. 138, § 19F; and 10) 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, often in cooperation with police departments, 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.

Complaints

In 2018, there were 349 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. Complaints are received primarily from the general public, industry members, municipal and state police, and state agencies.

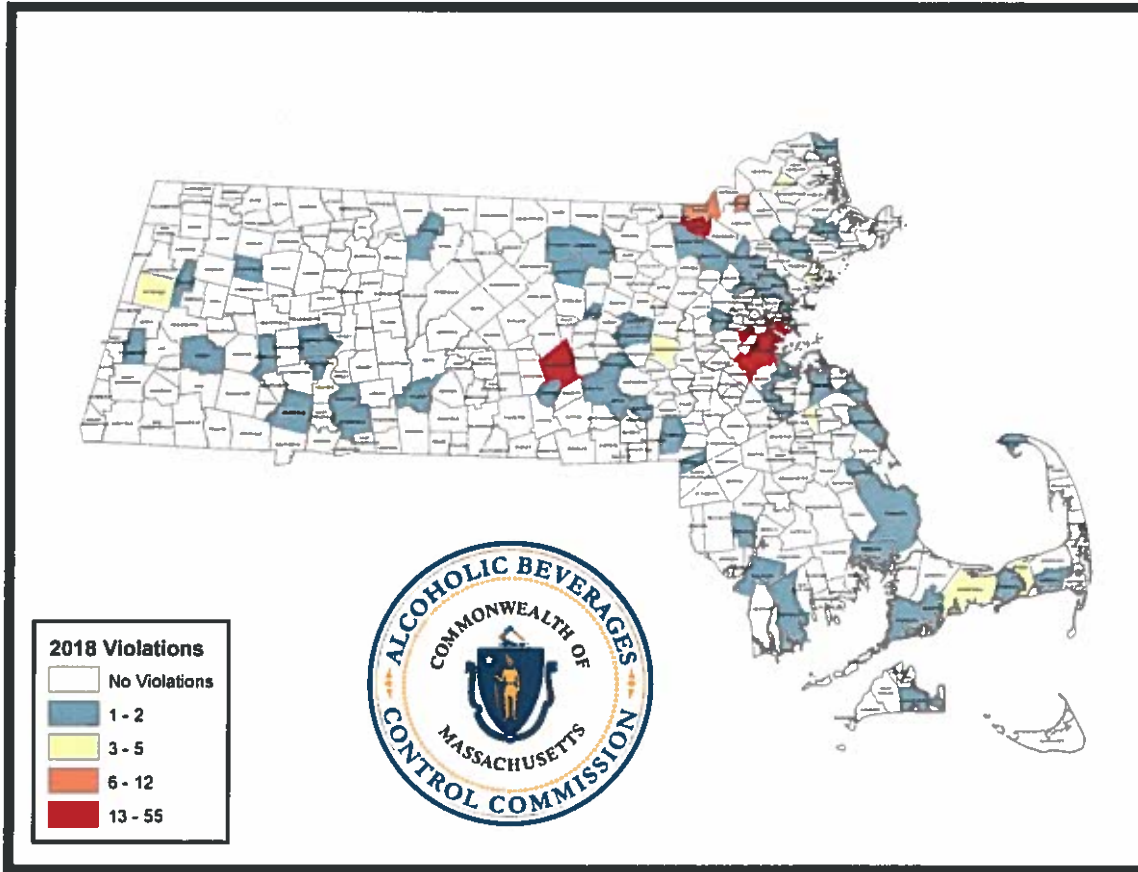
Complaints	Total	Liquor Control Act	Sale to Minor	Sale to Intoxicated	Gambling	Narcotics	Tampering	Ownership	Taxes
2012	525	215	95	82	43	5	26	1	58
2013	460	188	70	62	33	4	34	0	69
2014	344	133	70	40	30	4	46	0	21
2015	293	122	60	48	19	0	37	0	7
2016	298	145	59	45	26	2	21	0	5
2017	278	132	59	34	20	3	27	5	5
2018	349	168	78	46	21	1	34	0	1



Liquor Control Act Violations

In 2018, the Enforcement Division conducted operations in approximately 200 municipalities throughout the commonwealth, filing 164 reports detailing approximately 272 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	Tampering	Ownership	Taxes
2012	498	96	174	10	12	3	152	5	46
2013	654	207	124	20	36	3	166	22	117
2014	249	29	114	12	12	7	20	10	43
2015	221	25	98	15	18	0	24	11	30
2016	290	18	218	3	35	0	4	3	9
2017	267	3	223	21	7	1	1	5	6
2018	272	17	209	9	9	0	16	4	8



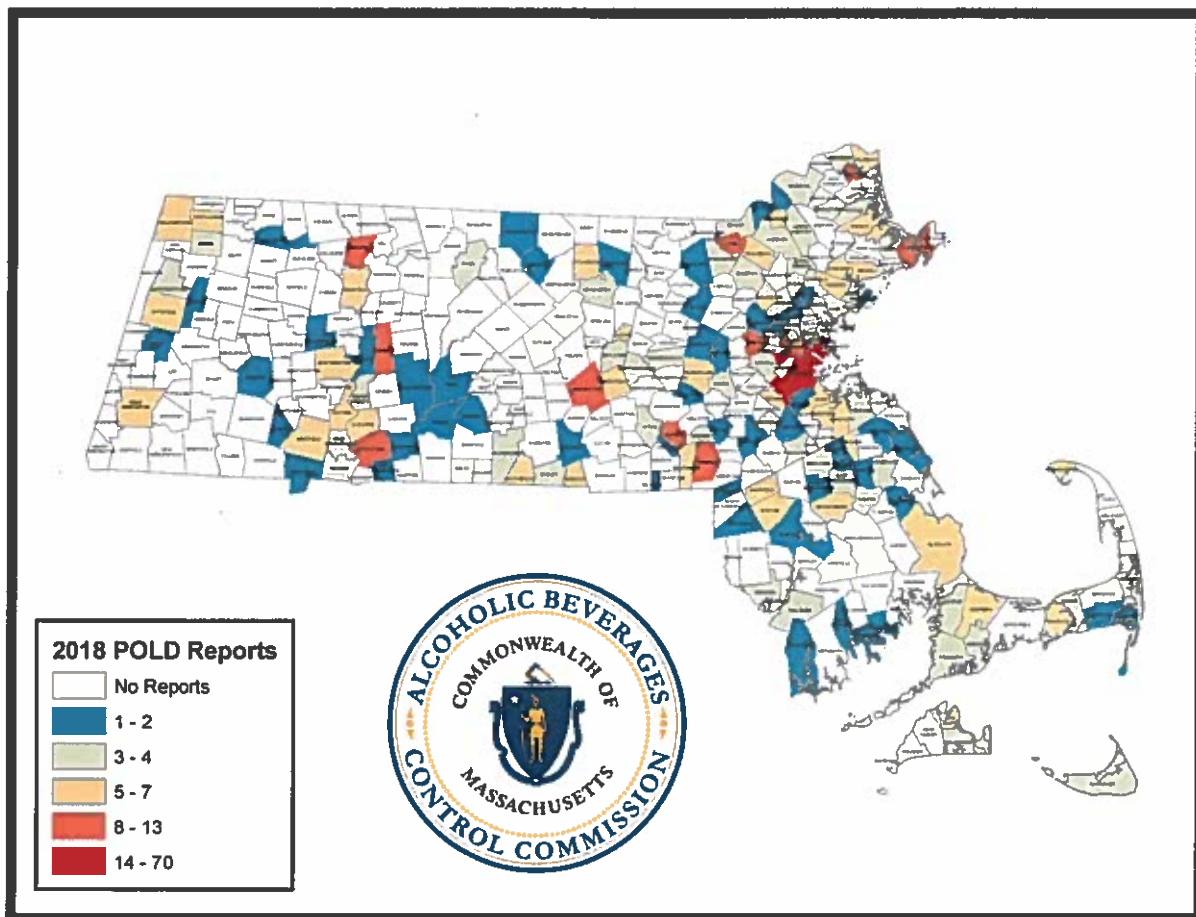
Data Driven Impaired Driving Prevention

Place of Last Drink (POLD) reports are filed with the Commission pursuant to M.G.L. c. 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 2018, there were approximately 1,600 § 24J reports filed with the Commission.

The Enforcement Division utilizes this data to determine the licensed establishments that have been identified in the highest number of 24J reports and thus may 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 an establishment is found to serve alcohol to an intoxicated individual, Investigators charge the establishment with M.G.L. c. 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 the establishments that are subject to this enforcement.

The National Transportation Safety Board (NTSB) held hearings, where Chief Frederick Mahony testified about this program, demonstrating that the use of POLD data to guide enforcement efforts led to a reduction in OUI arrests associated with establishments 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.”*



In 2018, 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 1,415 licensed establishments investigated, 13 charges and 151 warnings were issued pertaining to the sale of alcoholic beverages to an intoxicated person; and 68 charges and 22 warnings were issued pertaining to associated issues such as sale to a minor, overcrowding or open bar regulations.

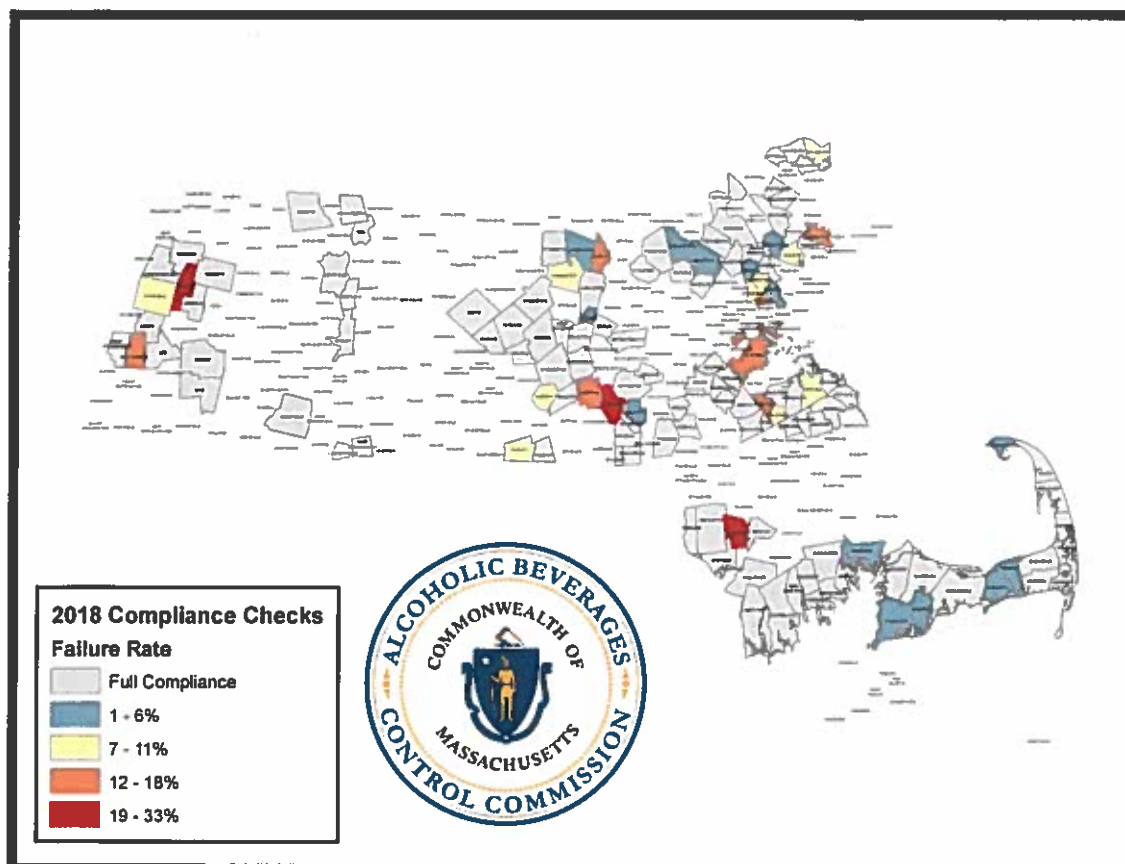
Minimum Purchase Age Compliance Checks

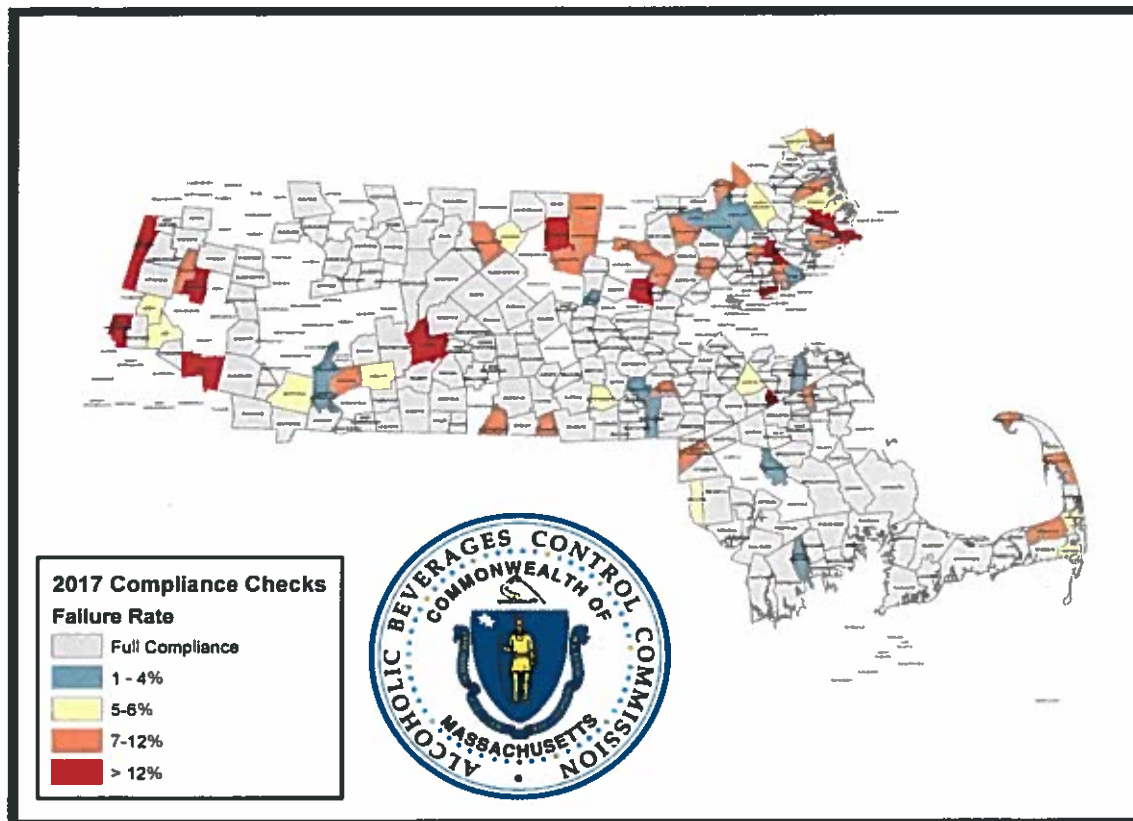
The objective of this program is to prevent the sale of alcoholic beverages to underage individuals by licensed establishments throughout the Commonwealth. The primary focus is to educate licensees and to increase their vigilance in the checking of identification. To achieve this objective the Investigation and Enforcement Division conducts Compliance Check enforcement in cooperation with Community Groups and Police Departments.

Since 2008, when the Enforcement Division enhanced the compliance check program, it has conducted compliance checks at 23,927 licensed establishments, of which 1,026 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: 2017 – 254 municipalities, 3198 establishments checked with 96 violations (3%); 2016 – 264 municipalities, 3,177 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, 2,287 establishments checked with 78 violations (3%); 2011 - 201 municipalities, 1,975 establishments checked with 135 violations (7%);

In 2018, the Enforcement Division conducted Compliance Checks in 134 municipalities across the Commonwealth. There were 1699 licensed establishments checked, of which 45 failed (3%). Of these licensees, there were 654 off-premise licensees checked of which 32 failed (5%); and 1045 on-premise licensees checked of which 13 failed (1%). It should be noted that the coverage in 2018 was significantly less than in 2017 due to a reduction in federal funding for the program.





Enhanced Liquor Enforcement Programs

Massachusetts has the fifth lowest ratio 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 restaurants, 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 restaurants, 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 2018, these programs produced the following results: 998 minors in possession or transporting alcoholic beverages; 174 adults procuring alcohol for minors; 164 individuals in possession of false identification; with 378 cases of beer and 508 bottles of alcohol confiscated by Investigators, preventing delivery to approximately 6592 underage individuals.

Since 2005, these programs have resulted in the following cumulative results: 9,620 minors in possession or transporting alcoholic beverages; 3,295 adults procuring alcohol for minors; 1,157

individuals in possession of false identification; and 4,701 cases of beer and 4,126 bottles of alcohol were confiscated by Investigators, preventing delivery to approximately 65,020 underage individuals.

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 who possess or have consumed alcoholic beverages. In Source Investigations, we 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, employees or third-party providers that furnish alcohol to minors or over serve their patrons, our goal is to effectuate a reduction in the number of licensees selling alcohol to minors and intoxicated patrons – and, ultimately, fewer incidents and crashes in Massachusetts.

Illegal Gambling Enforcement

The Enforcement Division conducts enforcement operations to prevent illegal gambling, primarily through the use of electronic video devices, at licensed establishments throughout the commonwealth. In 2018, the Enforcement Division filed illegal gambling charges against 9 licensed establishments.

Illegal Ownership / Control Enforcement

In 2018, the Enforcement Division conducted several investigations into unlawful ownership or control over licensed establishments 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. Further, when a complaint is received at the ABCC, Investigators reach out to police departments to conduct cooperative enforcement operations when feasible.

In 2018, the Division conducted enforcement operations at concert and sports venues in cooperation with municipal, state and county law enforcement agencies, as well as with the assistance of venue management. ABCC enforcement includes area liquor stores prior to the event, parking lot enforcement up until the beginning of the event and then enforcement within the licensed premises. The Division conducted these operations at the Xfinity Center, Gillette Stadium, and Fenway Park, and the results of this enforcement operation included: 373 minors in possession of alcohol; 46 furnishing alcohol to minors; numerous medical, intoxicated or incapacitated assists as well as the seizure of 271 bottles of alcohol and 122 cases of beer, preventing delivery to approximately 3198 underage individuals.

License Application Investigations

In 2018, the Enforcement Division completed approximately 3,247 investigations of license applicants to ensure compliance with the Liquor Control Act and to ensure satisfactory character and fitness of the applicants.

Commission Outreach Seminars

The ABCC utilizes our specialized knowledge regarding alcoholic beverages to provide training services to a multitude of audiences. We provide educational training seminars for local licensing authorities, police departments, and state and federal agencies.

In fiscal year 2018, the ABCC conducted 5 outreach seminars focusing on e-licensing, licensing, and compliance issues. 217 individuals attended these seminars, representing 117 municipalities and 7 associations, from every county in the Commonwealth.

Legislative Changes:

During fiscal year 2018, twenty-five bills were enacted regarding alcoholic beverages licenses. The Legislature and the Governor's Office requested that the Commission provide comments on the background and legality of these bills. Each of these bills falls into one or more of four categories: a) excess quota licenses; b) conversion of seasonal licenses to annual licenses; c) entering the quota system; and d) direct amendments to certain sections of M.G.L. c. 138.

The enacted Bills addressed one of these four categories as follows:

- A. Twenty Bills¹ created excess quota licenses in seventeen different communities² through the communities' exercise of their right to "home-rule" as it exists under the Massachusetts Declaration of Rights. These bills accounted for the addition of eighty all-alcohol Ch. 138, § 12 (on-premises) licenses, two wine and malt Ch. 138, § 12 (on-premises) licenses, three all-alcohol Ch. 138, § 15 (off-premises) licenses, and three wine and malt Ch. 138, § 15 (off-premises) license in the Commonwealth;
- B. One Bill in one community³ authorized the conversion of two seasonal § 12 licenses to annual licenses;
- C. One Bill in one community⁴ authorized the conversion of a wine and malt Ch. 138, § 15 (off-premises) license to an all-alcohol Ch. 138, § 15 (off-premises) license;
- D. One Bill in one community⁵ prohibited all licenses under Ch. 138, §§ 12 & 15 from transferring/selling licenses;
- E. One Bill in one community⁶ unrestricted a license by removing the name of the particular licensee from a license; and
- F. One Bill⁷ creates immunity from prosecution for purchasing/possessing alcohol for any person under 21 who, in good faith, seeks medical attention for

¹ Acts of 2017, Chapters 69, 76, 78, 80, 85, 91, 92, 93, 96, 98, 107, 128, 152, 153, 154, 175; and Acts of 2018, Chapters 1, 2, 95 & 100.

² Boston, Burlington, Chelmsford, Dedham, Dracut, Lynnfield, Medford, Milford, Millbury, Peabody, Palmer, Salem, Swampscott, Westborough, Westford, Westport, and Wrentham.

³ Salem, Acts of 2017, Chapter 162.

⁴ Salem, Acts of 2017, Chapter 170.

⁵ Belmont, Acts of 2017, Chapter 146.

⁶ Beverly, Acts of 2018, Chapter 13.

⁷ Acts of 2018, Chapter 69, §§ 101 & 102

themselves or someone else experiencing alcohol-related incapacitation, if the evidence for the purchase/possession of alcohol was gained as a result of seeking medical attention.

Legislative Recommendations

The Commission makes the following legislative recommendations regarding the traffic and conduct of the beverages alcohol licenses industry in the Commonwealth.

- **Charity Auction Permits and Charity-Partnership Pouring Permits**

Since the Acts of 1997, Chapter 153, charities could obtain permits to hold wine auctions and fundraisers, and since the Acts of 1998, Chapter 450, charities could partner with corporate partners to obtain a pouring permit for fundraising events. Because these Acts contained sunset provisions, they were renewed in the Acts of 2002, Chapter 398; the Acts of 2007, Chapter 229; and the Acts of 2012, Chapter 405. The sunset provision of the Acts of 2012, Chapter 405, expired on January 1, 2018, and no new legislation has been passed. The Commission recommends the passage of legislation in Chapter 138 to permanently codify the Charity Auction Permits and Charity-Partnership Pouring Permits.

- **Criminal Background Checks for License Applicants**

M.G.L. c. 138, § 12 provides that “No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law”; M.G.L. c. 138, § 15, provides that “No license shall be issued to any applicant who has been convicted of a felony”; and c. 138, § 26 provides that “such manager or representative is, with respect to his character, satisfactory.”

The current Commission has implemented several changes to enhance criminal background checks, including the submission of Massachusetts criminal records through electronic processing which provides almost immediate reporting for all individuals with a beneficial interest in a license. However, the Commission does not have the authority to obtain national criminal record offender information, and as a result, the current system is inadequate to ensure that all proposed applicants meet the statutory requirements to hold a license.

In order for this agency to obtain national criminal record information, legislation must be enacted which authorizes the agency to obtain this information. At the agency’s request, Senate Bill 196 was filed and is pending before the legislature.

- **Direct Wine Shipper License**

The Acts of 2006, Chapter 33, created the Direct Wine Shipper license, M.G.L. c. 138, § 19 F. It permitted certain wineries to ship “wine or winery products produced by the winery” directly to consumers. After the law was struck down as violative of the commerce clause, the legislature hastily rewrote the law to come into compliance with the Constitution. However, it appears that in its haste, it eliminated the requirement that the wine can only ship wine it makes. By the Acts of 2014, Chapter 165, § 162, certain wineries now can ship wines made not only by themselves, but by other wineries as well. This is reflected by the current language that certain wineries “may make sales and delivery of wine directly to residents of the commonwealth” The Commission recommends a return to the original intent of the direct wine shipper license, by reverting to the original language that certain wineries are permitted to ship “wine or winery products produced by

the winery” only, and brings attention to pending legislation to address this, HD1610, “An Act relative to the direct wine shipper license.”

- **Safety and Authority of Commission Investigators**

M.G.L. c. 10, § 72 authorizes the appointment of ABCC Investigators for the purpose of enforcing the penalties provided by law against every person who is guilty of a violation of M.G.L. c. 138 of which they can obtain reasonable proof, and further states that said Investigators, “shall make all necessary and appropriate investigations for that purpose.” In addition, this section mandates that each person appointed as an investigator shall complete a basic reserve police officer training course through the criminal justice training council, and shall attend a basic training course conducted by the Commission, and that all investigators shall attend an annual in-service training course pursuant to this section. Commission investigators are further obligated by M.G.L. c. 138, § 56, to make all needful and appropriate investigations to enforce the penalties provided by law against every person who is guilty of a violation of this chapter and provides the Investigators with powers of arrest for violations of M.G.L. c. 138.

However, the statute does not address the issue of an investigator’s authority when confronted with a volatile situation. The Commission has concerns regarding the safety of its investigators who are consistently investigating licensed premises at late hours, which may involve inebriated individuals in dangerous situations. To mitigate this situation, and attempt to enhance the investigators’ safety, the Commission has adopted a practice of having the investigators appointed and sworn as Deputy Sheriffs in several counties. However, this process is time consuming and logistically challenging. In addition, not all counties allow this.

In order for this agency to protect the safety of its investigators, legislation must be enacted that authorizes investigators to have all the power of a police officer in a city or town, with reference to enforcement of the laws, excluding M.G.L. c. 90. At the agency’s request, Senate Bill 203 was filed and is pending before the legislature.

- **Criminal Background Prohibitions for License Applicants**

M.G.L. c. 138, § 12, provides that, “No license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law”: M.G.L. c. 138, § 15, provides that “No license shall be issued to any applicant who has been convicted of a felony” and M.G.L. c. 138, § 26 provides that “such manager or representative is, with respect to his character, satisfactory.”

The current statute has not been reviewed in decades, and its language can cause harsh results. For example, the current statute would prohibit an applicant with a fifty-year-old drug conviction from opening a business with a § 12 liquor license, but it would not prohibit an applicant with other serious felony convictions from holding the same license.

In a growing world with an aging population, it would be helpful for the Commission to have discretion in considering an individual’s criminal offender record information. Accordingly, the Commission recommends that §§ 12, 15, and 26 be amended to mirror M.G.L. c. 23K, the “casino” statute, which allows for the Commission to consider the applicant’s rehabilitation and whether such conviction should be an automatic disqualification under this section. In considering the rehabilitation of an applicant, the Commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial

responsibility, character, reputation, integrity, and general fitness as such to warrant belief by the Commission that the applicant will act honestly, fairly, soundly and, efficiently as a licensee.

- **Farmer Brewery and Farmer Distillery Enterprises**

The current Farmer Brewery and Farmer Distillery definitions do not meet the growing and changing industry. Accordingly, the Commission recommends that the following legislation be enacted:

Section 1 of c. 138 of the General Laws, as so appearing, is hereby amended by deleting “Farmer-brewer”, any person who grows cereal grains or hops for the purpose of producing malt beverages and who is licensed to operate a farmer-brewery under §19C;” and inserting in its place the following:— “Farmer-brewer”, any person who grows, imports, or otherwise obtains cereal grains or hops for the purpose of producing malt beverages, and who is licensed to operate a farmer-brewery under §19C.

Section 1 of c. 138 of the General Laws, as so appearing, is hereby amended by deleting “Farmer-brewery”, any plant or premise where malt beverages are produced 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 inserting in its place the following:— “Farmer-brewery”, any plant or premise where malt beverages are produced from the fermentation of malt with or without cereal grains or fermentable sugars, or of hops.

Section 1 of c. 138 of the General Laws, as so appearing, is hereby amended by deleting “Farmer-distiller”, a person who grows fruits, flowers, herbs, vegetables, cereal grains or hops for the purpose of producing alcoholic beverages and who is licensed to operate a farmer-distillery under section 19E.” and inserting in its place the following: -- “Farmer-distiller,” any person who grows, imports, or otherwise obtains grows fruits, flowers, herbs, vegetables, cereal grains or hops for the purpose of producing alcoholic beverages and who is licensed to operate a farmer-distillery under section 19E.

- **Civil Citations for Violations of Chapter 138, §§ 34, 34A, 34B and 34C**

The current statute provides for criminal penalties for violations of §§ 34, 34A, 34B and 34C. To file criminal charges against the thousands of individuals found in violation of these statutes would not be feasible given the current Commission resources. Further, it would result in a criminal record for young people found violating these minor offenses. However, the most common complaint heard from industry retailers is that they are subject to administrative penalties and the underage person that initiated the violation does not receive any consequences for their actions. Many states allow for civil citations to be issued by liquor enforcement officers. Accordingly, the Commission recommends that the following legislation be enacted:

Section 2 of c. 138 of the General Laws, as so appearing, is hereby amended by inserting the following:

As an alternative to initiating criminal proceedings for violations sections 34, 34A, 34B, and 34C of chapter 138, any investigator of the Commission

may issue a civil citation for violations of said laws in the amount of the criminal fine provided for said violation, to be paid within 21 days of the date of issuance of such citation. Any person aggrieved by any citation issued pursuant to this section may appeal said citation by filing a notice of appeal with the Commission within seven days of the receipt of the citation. Any such appellant shall be granted a hearing before the Commission in accordance with chapter 30A. The Commission may affirm, vacate or modify the citation. Any person aggrieved by a decision of the Commission may file an appeal in the superior court pursuant to the provisions of said chapter 30A. If a person fails to comply with the requirement set forth in any citation issued pursuant to this section, or shall fail to pay any civil penalty provided thereby within 21 days of the date of issuance of such citation, or within 30 days following the decision of the Commission if such citation has been appealed, excluding any time during which judicial review of the Commission's decision remains pending, the Commission may apply for a criminal complaint against such person for the violation, or may initiate a civil action in the district court. All monies collected by the Commission under said civil citations shall be credited to the general fund.

The ABCC's Current 3-Year Priorities

In 2013, the agency procured the services of an outside consulting firm specializing in strategic planning, to aid in the development of a strategic plan. Following an eight-month process, a comprehensive document was produced that validated the ABCC's original goals and achievements and devised additional objectives that aligned with the agency's previous goals.

The Ripples Group noted that the ABCC had made much progress in recent years stating, "The ABCC easily pays for itself while playing an increasingly effective role in public safety and providing valuable services to its stakeholders." The ABCC generates revenues many times its budget. In fact, revenues have increased 15% since 2010, and tax collections have more than tripled.

In 2013, the tax collection agencies collected nearly \$14 million in back tax payments with the assistance of the ABCC. The report noted that overall the agency's resources were over-utilized, with a continuous increase in workload at all levels. Because the agency has successfully implemented a series of multi-year initiatives, even though the caseload has increased, the license turnaround times have decreased. For example, applications, without exception, are turned around in 3-5 weeks on average, compared to 6-8 weeks in 2009.

The report pointed out that given the high cost of alcohol related accidents and injuries in the Commonwealth, the investment in the ABCC is likely to have very high returns. The plan went on to state that more can be accomplished in public safety and service levels to stakeholders. To accomplish its strategic priorities, however, ABCC needs a step-change increase in resources specifically more staff, and better technology.

The ABCC's current 3-Year Priorities include:

Licensing

- e-Licensing implementation
- Expanded (national) CORI checks
- Faster turnaround through capacity and process/technology improvements
- Electronic document management

Enforcement

- Create Enforcement Division rank structure
- Increase ratio of Investigators to licensees
- Collaboration with the Gaming Commission for its role in casinos
- Effective media strategy to amplify deterrence of illegalities

Training & Technical Assistance

- New training program for Licensees
- Increased training for local law enforcement
- Increased training for local boards
- Additional Staff Training

Dispute Resolution

- Faster decisions

Legal Services

- Additional training for investigators

Internal

- Staff (capability and capacity) expansion
- Public relations function as deterrent
- Improved internal communications

The ABCC has accomplished many of these goals, as set forth herein.

Commission Initiatives:

• **E-licensing Project Update**

- In 2012, the ABCC and the Division of Professional Licensure procured the Accela software. The goal of implementing this solution is to provide a single gateway for businesses and individuals to apply for and manage their alcoholic beverages licenses and to increase efficiency and productivity by reducing license management and enforcement cycle times, streamlining business processes, and eliminating outdated legacy systems. The system is expected assist the agency in meeting its goals for improved customer service, transparency of information for citizens, and streamlined administrative processes.
- Much progress has been made since the project's inception in 2012. The ABCC has worked closely with Accenture, the system implementation vendor, and the Executive Office of Technology Services & Security (EOTSS), the system maintenance provider, on conversion planning, business re-engineering, existing data verification, development, implementation and maintenance planning. On March 9, 2015, the ABCC went live with the first release of the e-licensing application. There were subsequent releases for additional state license types in February of 2016. Today, all state licenses types are live in the system.

• **Electronic Document Management System & Scanning and Conversion**

The ABCC and ITD started two separate procurement processes in fiscal year 2014: one from ITD for an enterprise-wide, cloud hosted Electronic Document Management System and another from the Commission for the scanning and conversion to electronic version of all of its' paper documents. Much progress has been made in both areas. The enterprise-wide, cloud hosted EDM System, OnBase, was completely configured to meet the needs of the ABCC and is running on all agency computers.

The scanning and electronic capture project was completed in calendar year 2016. In total, over 22,000 license files were scanned which included approximately 4.6 million documents.

Investigators now have unprecedented search capabilities and are able to gather information faster and more accurately than they could in the previous, paper-based system. All agency staff are able to electronically "pull files" without ever having to leave their desk, making both the licensing process and investigation process much faster and more efficient than ever before.

General Remarks:

We wish to express our appreciation to the Local Licensing Authorities for their continued cooperation and assistance with the administration of the Liquor Control Act. We also want to express our appreciation to the members of House of Representatives and the Senate and particularly the Joint Legislative Committee on Consumer Protection and Professional Licensure for the courtesy which they have shown us and for the earnest and sincere manner in which they approach consideration of proposed amendments to the Liquor Control Act.

Respectfully Submitted,

ALCOHOLIC BEVERAGES CONTROL COMMISSION



Jean M. Lorizio, Esq., Chairman