



Alcoholic Beverages Control Commission
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ALCOHOLIC BEVERAGES CONTROL COMMISSION

FISCAL YEAR 2020 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 hundreds of individuals from possessing false identification. 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 the municipalities;
- building strong relationships with other agencies; and
- utilizing technology to assist with limited resources.

In fiscal year 2020, the Commission generated \$5,110,678.00 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 \$5,967,438.00 in back tax payments and penalties. These results were achieved with an annual budget of \$4,480,000.00, thirty-four 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, 2020**. 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 2019**.

Financial Statement:

Summary of Income Received in Fiscal Year 2020 from Fees for Licenses and Permits
Issued by the Commission under Chapter 138 of the General Laws

Manufacturers' License Fees	§19, all alcohol	\$330,880
	§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	\$1,130,000
	§18, wine and malt beverages	
	§18, sacramental wines	
Retail Alcohol Application Fees	§12, on-premises	\$521,800
	§15, off-premises	
	additional package store	
Agents,' Brokers' or Solicitors License Fees	§18A	\$370,000
Railroad License Fees	§13, railroad master	\$5,500
	§13, railroad cars	
	§22, railroad cargo	
Airplane License Fees	§13, airline master	\$36,300
	§13, airline flights	
	§22, airline cargo	
Ship License Fees	§13, ship master	\$64,500
	§13, ship chandler	
	§22, ship cargo	
Commercial License Alcohol Fees	§76	\$2,000
Special Permit License Fees	§22A, import household effects/gifts	\$37,252
	charity wine	
	§22A, license inventory liquidation	
	§22A consumer research permits	
Storage Permit Fees	§20, bonded	\$96,000
	§20A, public	
	§20, storage	
	§18B registration certificate of compliance	
Transportation Permit Fees	§22, transportation and delivery	\$1,085,100
	§22, express company permits	
Salesman Permit Fees	§19A	\$453,250
Caterer's License	§12C	\$163,200
Certificates of Compliance Fees	§18B	\$769,300
Fine in Lieu of Suspension Fees		\$33,469
Miscellaneous Income		\$12,126
Total Receipts		\$5,110,678

Additional Income to the Commonwealth: As stated previously, in fiscal year 2019, with the Commission's assistance, the Departments of Unemployment Assistance (DUA) and Revenue (DOR) collected taxes from delinquent licensees in the amount of \$5,967,438.00 from Massachusetts alcoholic beverages licensees.

Alcoholic Beverages Licenses & Permits Issued For Calendar Year 2019:

Type	# Issued	Category
Manufacturers' License	3	§19, all alcohol
	6	§19, wine and malt beverages
	39	§19E, distilleries
	178	§19C, breweries
	110	§19B, wineries
	34	§19D, pub brewery
	1,236	§19F, winery shipment
Wholesalers' and Importers' License	90	§18, all alcoholic beverages
	84	§18, wine and malt beverages
	4	§18, sacramental wines
Retail Alcohol License	9,425	§12, on-premises
	3,052	§15, off -premises
	28	Additional Package Store
Agents,' Brokers' or Solicitors License	68	§18A
Railroad License	4	§13, railroad master
	68	§13, railroad cars
	0	§22, railroad cargo
Airplane License	14	§13, airline master
	566	§13, airline flights
	2	§22, airline cargo
Ship License	82	§13, ship master
	0	§13, ship chandler
	0	§22, ship cargo
Commercial License Alcohol	3	§76
Special Permit License	63	§22A, import household
	495	Extension of dockside service
	91	charity wine
	9	§22A, license inventory
Storage Permit	18	§22A Consumer Research
	0	§20, bonded
	29	§20A, public
Transportation Permit	25	§20, storage
	3,944	§22, transportation and delivery
	8,487	§22, express company permits
Salesman Permit	2,304	§19A
Certificates of Compliance	3,009	§18B
Caterer's Section 12C License	97	§12C

Total Licenses, Permits and Certificates Active in 2019: 33,667

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 337 and conducted 197 hearings in calendar year 2019. Below are the hearing types:

Hearing Type

Violation	147
Informational (license applications)	13
Appeals	28
Tax/Lottery	2
25E	10
Withdrawn	35
Continued	197

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) 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 M.G.L. c. 138, § 19F; and 10) to prevent unlawful trade practices in the alcoholic beverage industry.

Reports on arrest data have established that 75-80% 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 motor vehicle accidents. 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.

This year's Annual Report has been adapted to report the activity of ABCC Special Investigators in their efforts to support the Executive Orders and Public Health Safety Standards that were enacted to address the worldwide COVID-19 pandemic in Massachusetts. It is with great hope that the 2021 Annual Report will resume the standard reporting format outlining the enforcement of the Massachusetts Liquor Control Act.

On February 1, 2020, the first case of COVID-19 was confirmed by state health officials, with Massachusetts becoming the fifth state in the U.S. to report a case of COVID-19. On March 6, 2020, state health officials reported five new cases, bringing the state total to eight.

On March 10, 2020, Governor Charlie Baker declared a State of Emergency in Massachusetts to support the Commonwealth's response to the outbreak of COVID-19 and the subsequent Executive Orders that prohibited on-site consumption of food and drink. On March 23, 2020, Governor Baker announced a stay-at-home advisory effective from noon March 24 until noon on April 7, 2020. Nonessential businesses were ordered to close physical workplaces, and establishments for on-premises consumption of food and drink were restricted to offering takeout and delivery.

On April 12, 2020, there were 25,475 total cases of COVID-19, making Massachusetts the state with the third highest number of cases in the United States, behind only New York and New Jersey.

On May 1, 2020, Governor Baker issued an order to require people to cover their faces in public when they were unable to keep six feet away from others. On May 8, 2020, Boston Mayor Marty Walsh announced that parades and festivals would not take place until Labor Day at the earliest.

On May 11, 2020, Governor Baker announced *Reopening Massachusetts*, a four-phased plan to reopen the state. The goal of the phased reopening, based on public health guidance, was to progressively allow businesses, services, and activities to resume, while protecting public health and limiting a resurgence of new COVID-19 cases. The plan centered around Mandatory Workplace Safety Standards that applied across all sectors and enterprises. Each phase of the reopening was guided by public health data and key indicators that were monitored and used to determine advancement to future phases. Industries, sectors, and activities that presented lower risk were allowed to reopen in earlier phases. Those that presented greater risk opened in later phases. In order to reopen, certain businesses were required to develop a written COVID-19 Control Plan outlining plans to prevent the spread of COVID-19 among workers and patrons.

On June 6, 2020, Governor Baker announced Phase II of Massachusetts' reopening plan, including the reopening of stores and outdoor tables at restaurants. In Step 2 of Phase II, restaurants were permitted to open for indoor table service. On June 10, 2020 ABCC Special Investigators initiated enforcement coverage to ensure that bars and restaurants were complying with the Executive Order and associated Safety Standards.

On July 2, 2020, Governor Baker announced that Massachusetts would enter the first stage of Phase III of its reopening plan starting on July 6, 2020. To improve revenues for establishments with on-premises alcohol licenses, Governor Baker signed a law on July 21 allowing on-premises licensees to serve cocktails to go in sealed containers until at least February 2021.

Toward the end of July, Massachusetts began to experience a reversal in what had been positive trends in case data. Governor Baker noted "disturbing reports of large gatherings" as a factor in the uptick in cases, a trend he described as attributable to people not following guidelines.

On August 7, 2020, Governor Baker announced that Massachusetts would postpone entering the second portion of Phase III of the state's reopening plan, intensify enforcement of COVID-19 regulation violations, and reduce the number of people allowed at public and private outdoors events from 100 to 50. The changes were announced after several incidents in which large parties were found to be violating the state guidelines regarding the number of people allowed to gather, the mask requirement, and physical distancing.

Also on August 7, 2020, in response to the surge in COVID-19 cases, Governor Baker announced enhanced enforcement measures, including the creation of a COVID Enforcement and Intervention Team, to help increase the enforcement of public health rules statewide and to coordinate local interventions in communities labeled as higher-risk.

The Executive Office of Public Safety and Security and the Massachusetts Emergency Management Agency coordinated the effort, which involved the state's coronavirus command center, the Massachusetts State Police, Department of Labor Standards, Division of Professional Licensure, Department of Public Health, Division of Local Services, Executive Office of Technology Services and Security and the Alcoholic Beverages Control Commission.

The Alcoholic Beverages Control Commission's Executive Director communicated with the above agencies to coordinate requests for assistance from municipal agencies, as well as other state agencies, to determine areas of need where the ABCC could be of assistance and support.

The ABCC's Chief Investigator scheduled enforcement operations with a data driven approach to best address the needs of the communities and agencies; including the prioritization of complaint information received by agencies such as the Department of Labor Standards and the Department of Public Health. The enforcement operations were also focused on licensed establishments located in higher risk communities such as Chelsea, Everett, Lawrence, Lynn, and Revere, as well as those known to ABCC Investigators to be less than compliant with Massachusetts liquor laws.

The enforcement efforts strived to encouraged voluntary compliance through high visibility licensee education and guidance; the issuance of warnings for minor violations of the Standards; and charges being filed for egregious violations of the Safety Standards where the licensee knew or should have known that such behavior was in violation of the Standards and thereby dangerous to the public health.

On September 29, 2020, Governor Baker announced that communities classified by the state as "lower risk" would be allowed to move into step two of the third phase of the reopening plan. This included allowing both indoor and outdoor performance venues to open at 50% capacity.

On November 2, 2020, Governor Baker announced a statewide curfew for businesses, a tighter limit on the number of people allowed to gather indoors, and more stringent face mask requirements. The curfew required some businesses such as theaters and casinos to close at 9:30 pm and required restaurants to stop providing table service at that same time. Governor Baker also implemented a stay-at-home advisory encouraging people to stay home between the hours of 10 p.m. and 5a.m.

An increase in new COVID-19 infections and hospitalizations following the Thanksgiving holiday that coincided with a global surge in the virus precipitated new statewide restrictions for capacity, mask compliance and distancing. These temporary reductions in indoor capacities across a broad range of sectors of the economy, as well as a tightening of several other workplace restrictions, were designed to prevent infection and viral spread.

On December 3, 2020, Massachusetts' average positive COVID-19 test rate exceeded 4.9% for the first time since June. Total daily case numbers in the first few days of December began to surpass those seen at the April peak of the first wave of COVID-19 in the State. On December 8, 2020, Governor Baker announced that all cities and towns in Massachusetts would be required to roll back to Phase III, Step 1 of the State's reopening plan.

On December 9, 2020, Governor Baker announced an estimated timeline for distribution of a COVID-19 vaccine. The first doses of the vaccine arrived in Massachusetts on December 14, 2020.

On January 4, 2021, Governor Baker announced that first responders would begin to receive 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 February 1, 2021, Massachusetts entered Phase Two of its vaccine program, making residents 75 years of age and older eligible for the vaccine. A mass vaccination site opened at Fenway Park on the same day; along with one at Gillette Stadium in Foxborough.

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, 2021, 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. The new order also recommended, but no longer required, individuals to wear masks in small private gatherings. 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.

In summary, Massachusetts experienced a first wave of COVID-19 that peaked in late April 2020 with almost 4,000 people hospitalized, and a rolling seven-day average of 2,300 new confirmed cases and 175 confirmed deaths a day. A second wave began in the autumn of the same year and peaked in January 2021, seeing higher daily case numbers but fewer deaths and hospitalizations than occurred in the first wave. There was a smaller third spike of increased cases and hospitalizations in March and April 2021, which resulted in significantly fewer deaths than in the first two waves. As of June 4, 2021, Massachusetts was experiencing a rolling average of 104 new confirmed cases and 4 confirmed deaths per day.

As of June 4, 2021, Massachusetts had the 15th-highest number of cases out of states in the United States since the beginning of the pandemic, 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. The state had tested more than 5.7 million people for the virus via molecular test, and more than 815,000 via antigen test. 66.8% of people in Massachusetts had received at least one dose of a COVID-19 vaccine, and 54.3% were fully vaccinated.

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 complied 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 mandatory 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 March 17, 2020 through August 7, 2020 the ABCC received and addressed approximately 59 complaints alleging a violation of the Executive Orders; of which 30 (73%) were determined to be operating in compliance; 16 (27%) were issued warnings or charged with a violation of Exec. Order No. 46.

From August 11, 2020 through May 28, 2021, the ABCC received and investigated 826 complaint referrals from DLS, DPH, 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.

In addition, in 2020, Investigators addressed 172 complaints 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: resulting in the filing 49 violation reports detailing approximately 128 violations of the Liquor Control Act.

Social clubs, particularly in Bristol and Essex counties, were found to be problematic in the early days of the pandemic. Investigators strengthened their focus on these locations accordingly and filed charges where needed. Investigators observed approximately 2530 social clubs in 198 municipalities, where 1623 (64%) were found to be closed. Of the 907 that were open, 879 (97%) were found to be operating in compliance. Most of the club violations and warnings occurred early in the enforcement effort and the level of compliance was then consistently high over the last several months.

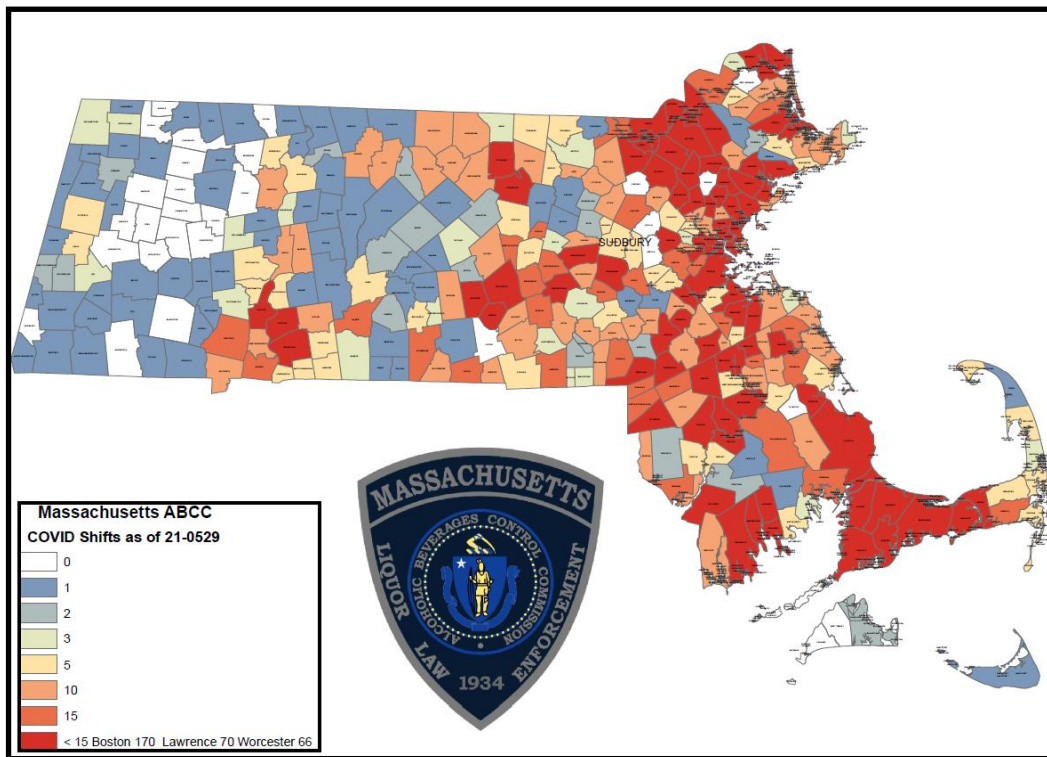
Investigators also enhanced efforts to address college and university host communities where alcohol had historically led to problematic social behavior and community harm. With COVID-19, the objective was to prevent high-risk behavior among college students. The volume of underage individuals attempting to purchase alcohol at retail liquor stores in Boston and Worcester was notably reduced as a result of these efforts.

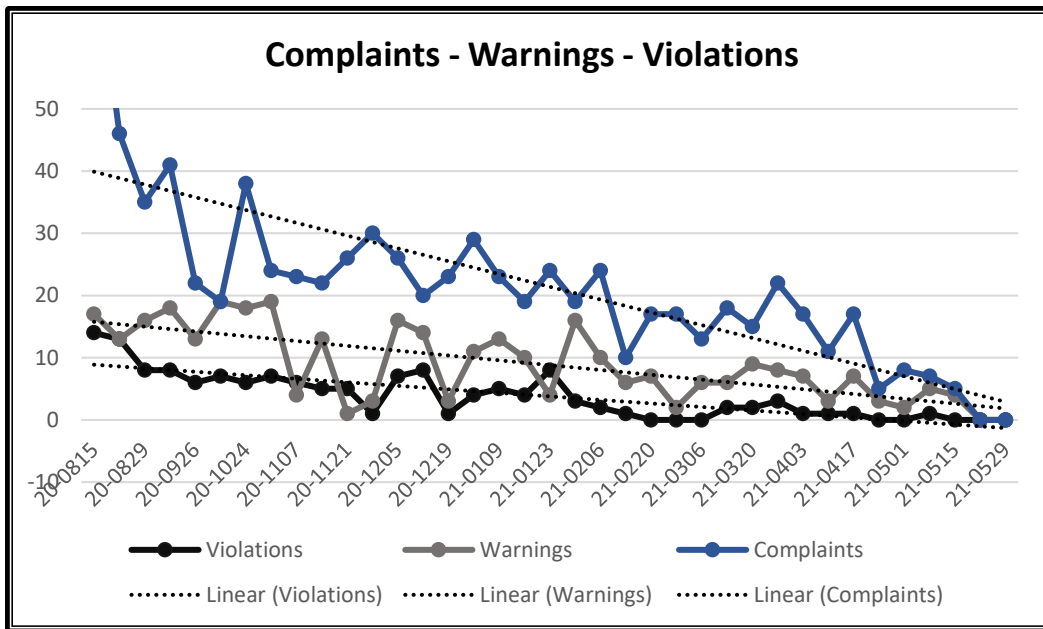
Overall, the effort and desire to ensure a safe dining and work environment displayed by the hospitality industry of the commonwealth was truly impressive. Most restaurants were observed

to be closely monitoring their premises to maintain compliance with the Safety Standards. The facility layouts were within the proper distancing, with plexiglass petitions at bars and tables; and restaurant staff and patrons were observed to be wearing facial coverings. Outdoor dining areas appeared to be successful; with owners putting considerable effort and financial investment into the development of safe dining areas.

On Saturday, May 29, 2021 the ABCC Investigation and Enforcement Division ended its enforcement efforts supporting the COVID-19 Executive Orders and public health Safety Standards. Investigators returned to focusing their efforts on traditional alcohol law enforcement issues such as the sale of alcohol to intoxicated persons and underage persons, illegalities and or disorders, as well as capacity and overcrowding issues.

Most recently, Investigators have observed a tremendous surge in business activity, with entry lines at most Boston licensed premises from early evening through 1am. Most licensees appeared to be responsible and cautious in handling their first full day of operations; several advised that they were limiting their capacity to what their new staff could handle. There was a celebratory atmosphere on the streets and in the establishments, which was further enhanced by near capacity Bruins and Red Sox games. The City was alive and thriving.





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 FY 2020, the ABCC conducted 18 outreach seminars focusing on e-licensing, licensing, and compliance issues. 1,069 individuals attended these seminars, representing 305 municipalities, with participants from every county in the Commonwealth.

Legislative Changes:

During fiscal year 2020, twenty-one 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 of three categories: a) excess quota licenses; b) conversion of wine/malt licenses to all alcohol licenses; and c) polling locations.

The enacted bills addressed one of these three categories as follows:

- A. Eighteen bills¹ created excess quota licenses in eighteen 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 fifty-five all-alcohol Ch. 138, §12 (on-premises) licenses, thirteen wine and malt Ch. 138, §12 (on-premises) licenses, seven all-alcohol Ch. 138, §15 (off-premises) licenses, and four wine and malt Ch. 138, §15 (off-premises) licenses in the Commonwealth;

¹ Acts of 2019, Chapters 57, 62, 72, 79, 96, 139, 150 & 151; and the Acts of 2020, Chapters 9, 10, 14, 33, 46, 48, 54, 66, 76, 83, 86 & 108.

² Amesbury, Boxford, Burlington, Easthampton, Fairhaven, Holliston, Hudson, Lynn, Methuen, Middleton, Milford, North Andover, Salem, Sharon, Swansea, Watertown, Webster, and Woburn.

- B. One bill in one community³ authorized the conversion of a wine and malt § 15 license (off-premises) to an all alcohol license; and one bill in one community⁴ authorized the conversion of a wine and malt § 12 license (on-premises) to an all alcohol license; and
- C. One bill in one community⁵ banned the sale and consumption of alcohol at polling locations both during voting hours and during ballot counting.

Legislative Recommendations

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

- H.26: An act modernizing the Massachusetts alcohol laws

The Treasurer has filed H.26, An act modernizing the Massachusetts alcohol laws. This bill would improve the alcohol laws in three important ways:

- First, it would make improvements to opening patios for establishments licensed for on-premises consumption by eliminating the “appurtenant and contiguous” requirement for patios. Current law requires any outdoor space to be “appurtenant and contiguous” to an establishment’s building, preventing many licensees from constructing patios. This bill would eliminate this limitation.
- Second, it increases the window of time allowed to appeal a Local Board decision from five business days to ten business days.
- Third, it eliminates statutory prohibitions for § 12 and § 15 retail licensees and replaces it with a general “character and fitness” review for all 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 50-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. Instead of these statutory prohibitions, it would be more practical for the Commission to have discretion in considering an individual’s criminal history when evaluating character and fitness.

- 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

³ Holliston, Acts of 2020, Chapter 33.

⁴ Salem, Acts of 2020, Chapter 108.

⁵ Middleton, Acts of 2019, Chapter 92.

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 (also known as the Interstate Identification Index or “Triple I”), and as a result, the current system is inadequate to ensure that all proposed applicants meet the statutory requirements to hold a license.

For this agency to obtain national criminal record information, legislation must be enacted that authorizes the agency to obtain this information.

- Direct Wine Shipper License

The Acts of 2006, Chapter 33, created the Direct Wine Shipper license, M.G.L. c. 138, § 19F. 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 winery 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 permitted wineries to ship “wine or winery products produced by the winery” only.

- 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.

- 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 of 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.

- Permit § 15 “Package Store” Licensees to Warehouse Inventory

While other retail licensees can warehouse their inventory at § 20 warehouses, § 15 “package store” licensees are not permitted to do so. This prevents smaller establishments from being able to compete with larger establishments because they cannot ordinarily take advantage of bulk-buying discounts because their premises are too small to store such a large volume of inventory. Permitting these licensees to warehouse their inventory off their premises at § 20 warehouses would level the playing field for smaller licensees.

- Move Licensee Application Fee-Setting to Administration & Finance

The licensee application fees for alcohol licenses are outdated and unbalanced. For example, a farmer-series license application fee is \$22.00; an all-alcohol manufacturer's license application fee is \$10,000. Because these fees are set through statute, the only way to bring the fees up to date is through the legislative process. The ABCC recommends that all license application fees be set by Administration & Finance.

The ABCC's Current 3-Year Priorities

Over the last several years, the ABCC, in conjunction with other state agencies, procured and implemented the Accela e-licensing platform, and implemented a document management system. These two projects have provided ABCC staff the ability to review applications and documents online, while working either in the office or remotely in the field. This capability has reduced the time spent processing applications and amendments and has allowed staff to access documents on demand. Updating and refining the electronic and remote working software and the application process continues to be a priority.

Previous state reports have concluded that the ABCC's license and fee revenue and the impact on recovering unpaid taxes is financially advantageous to the Commonwealth. The ABCC will continue to work with state agencies to aid in the collection of required taxes and fees. Millions of dollars have been recovered through these inter-agency partnerships. This collaboration will continue to provide results and be a priority into the future.

The revenue generated by the ABCC far exceeds its budget and the agency makes every effort to play a vital role in public safety, while also continually working to improve upon service provided to stakeholders.

The ABCC's current 3-Year Priorities include:

Licensing

- Continued use and expansion of e-Licensing
- 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 and attorneys, including those serving as town counsel
- 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**

State and retail license applications/amendments are processed through e-licensing. The system allows documents to be stored and reviewed online. Approvals are e-mailed to the stakeholders to reduce time and assist businesses. We continue to work towards refining the process to make it easier for staff and the general public, and to decrease application processing times. In FY20 the ABCC expanded the use of our e-licensing system to include all hearing and enforcement records to be included in the system. This ensures record retention and smoother workflow for the agency.

- **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.

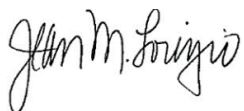
Investigators now have unprecedented search capabilities and can gather information faster and more accurately than they could in the previous, paper-based system. All agency staff can electronically "pull files" without ever having to leave their desk, making both the licensing process and investigation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

General Remarks:

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

Respectfully Submitted,

ALCOHOLIC BEVERAGES CONTROL COMMISSION



Jean M. Lorizio, Esq., Chairman