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ALCOHOLIC BEVERAGES CONTROL COMMISSION

FISCAL YEAR 2022 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 municipalities;
- building strong relationships with other agencies; and
- utilizing technology to assist with limited resources.

In fiscal year 2022, the Commission generated approximately \$5,757,468 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 \$4,935,531.43 in back tax payments, outstanding debts and penalties. These results were achieved with an annual budget of \$4,980,041, thirty-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, 2022**. 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 alcoholic beverages licenses issued in **calendar year 2021**.

Financial Statement:

Summary of Income Received in Fiscal Year 2022 from Fees for Licenses and Permits
Issued by the Commission under Chapter 138 of the General Laws

Manufacturers' License Fees	§19, all alcohol	\$332,926
	§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	\$1,264,850
	§18, wine and malt beverages	
	§18, sacramental wines	
Retail Alcohol Application Fees	§12, on-premises	\$693,600
	§15, off-premises	
	Additional Package Store	
Agents,' Brokers' or Solicitors' License Fees	§18A	\$372,000
Railroad License Fees	§13, railroad master	\$5,500
	§13, railroad cars	
	§22, railroad cargo	
Airplane License Fees	§13, airline master	\$39,600
	§13, airline flights	
	§22, airline cargo	
Ship License Fees	§13, ship master	\$68,000
	§13, ship chandler	
	§22, ship cargo	
Commercial License Alcohol Fees	§76	\$1,000
Special Permit License Fees	§22A, import household effects/gifts	\$22,506
	charity wine	
	§22A, license inventory liquidation	
	§22A Consumer Research Permits	
Storage Permit Fees	§20, bonded	\$68,000
	§20A, public	
	§20, storage	
	§Registration Certificate of Compliance	
Transportation Permit Fees	§22, transportation and delivery	\$1,288,800
	§22, express company permits	
Salesman Permit Fees	§19A	\$475,400
Caterer's License	§12C	\$183,450
Certificates of Compliance Fees	§18B	\$875,900
Fine in Lieu of Suspension Fees		\$20,001
Miscellaneous Income		\$45,935
Total Receipts		\$5,757,468

Additional Income to the Commonwealth: As stated previously, in fiscal year 2022, with the Commission's assistance, the Departments of Unemployment Assistance (DUA) and Revenue (DOR) collected taxes from delinquent licensees in the amount of \$4,935,531.43 from Massachusetts alcoholic beverages licensees.

Alcoholic Beverages Licenses & Permits Issued For Calendar Year 2021:

Type	# Issued	Category
Manufacturers' License	5	§19, all alcohol
	5	§19, wine and malt beverages
	48	§19E, distilleries
	215	§19C, breweries
	123	§19B, wineries
	32	§19D, pub brewery
	1,361	§19F, winery shipment
Wholesalers' and Importers' License	97	§18, all alcoholic beverages
	70	§18, wine and malt beverages
	4	§18, sacramental wines
Retail Alcohol License	9,917	§12, on-premises
	3,289	§15, off -premises
	42	Additional Package Store
Agents,' Brokers' or Solicitors' License	73	§18A
Railroad License	4	§13, railroad master
	70	§13, railroad cars
	0	§22, railroad cargo
Airplane License	12	§13, airline master
	714	§13, airline flights
	2	§22, airline cargo
Ship License	123	§13, ship master
	0	§13, ship chandler
	0	§22, ship cargo
Commercial License Alcohol	4	§76
Special Permit License	40	§22A, import household
	551	Extension of dockside service
	5	charity wine
	8	§22A, license inventory
	4	§22A Consumer Research
	74	§22A, Auction
Storage Permit	1	§20, bonded
	29	§20A, public
	26	§20, storage
Transportation Permit	6,601	§22, transportation and delivery
	11,916	§22, express company permits
Salesman Permit	2,169	§19A
Certificates of Compliance	2,817	§18B
Caterer's Section 12C License	102	§12C

Total Licenses, Permits and Certificates Active in 2021: 40,553

Commission Hearings:

The ABCC conducts hearings for: charges filed by the ABCC Investigation and Enforcement Division; 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 232 and conducted 155 hearings in calendar year 2021.

Below are the hearing types:

Hearing Type	
Violation	115
Informational (license applications)	4
Appeals	6
25E	26
Withdrawn	10
Tax	0
Lottery	6
Continued	56

ABCC’s COVID-19 Response:

The COVID-19 pandemic created an unprecedented crisis in the alcohol industry. With that, the ABCC understood it had a unique opportunity to buoy the industry while at the same time taking on a critical educational and public safety enforcement role. The ABCC, working with the legislature, the Governor’s office, and local boards, took several ambitious actions to advance these goals.

As the Governor’s executive orders and the legislature’s emergency legislation were rapidly rolling out and frequently changing in response to developments in the pandemic, the ABCC issued over thirty Advisories, providing vital information to licensees on these developments, often within hours of the changes being issued. In addition to issuing the Advisories, the ABCC fielded over 3,000 phone calls from licensees, local boards, and members of the public regarding these developments.

The ABCC also recognized the hardship for § 12 licensees to pay their alcohol invoices within sixty days as required by M.G.L. c. 138, § 25. To alleviate this widespread burden, the ABCC issued an order creating a groundbreaking repayment plan for licensees to pay their invoices over a period of twelve months. The ABCC received significant praise from the industry regarding this order, and the ABCC has been credited with saving untold numbers of licensees from shutting down.

Finally, the ABCC also assisted in the rollout of the expansion of outdoor dining pursuant to the Governor’s executive orders, creating workable guidelines for local boards and licensees. The expansion of outdoor service has been an overwhelming success.

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 potentially 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 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 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.

Complaints

In 2022, there were 234 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 public, industry members, municipal and state police, and state agencies.

Complaints	Total	LCA	Minors	SIP	Gambling	Narcotics	PSB	15A	Taxes
2013	460	188	70	62	33	4	34	0	69
2014	344	133	70	40	30	4	46	0	21
2015	293	122	60	48	19	0	37	0	7
2016	298	145	59	45	26	2	21	0	0
2017	278	132	59	34	20	3	27	5	5
2018	349	168	78	46	21	1	34	0	1
2019	295	132	59	57	10	5	38	5	5
2020	720	110	24	12	5	1	14	0	1
2021	461	75	45	23	6	1	13	0	0
2022	234	90	73	45	5	1	16	0	1

Liquor Control Act Violations

In 2022, the Enforcement Division conducted operations throughout the commonwealth, filing 147 reports detailing approximately 307 violations of the Liquor Control Act that included, but were not limited to, the sale of alcohol to underage or intoxicated individuals, illegal gambling, illegal alcoholic beverages, criminal ownership of licensed premises, and unlawful trade practices.

Violations	Total	Liquor Control Act	Sale to Minor	Sale to Intoxicated	Gambling	Narcotics	Alc Tampering	Ownership	Taxes	Trade
2013	654	207	124	20	36	3	166	22	117	0
2014	249	29	114	12	12	7	20	10	43	0
2015	221	25	98	15	18	0	24	11	30	8
2016	290	18	218	3	35	0	4	3	9	1
2017	247	3	223	21	7	1	1	5	6	1
2018	273	17	209	9	9	0	16	4	8	1
2019	319	0	225	21	0	0	6	5	6	5
2020	123	12	28	0	1	0	1	0	1	0
2021	155	27	117	6	1	0	3	0	1	0
2022	307	16	263	18	4	0	2	0	0	4

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 2022 there were approximately 833 § 24J reports filed with the Commission, which is still significantly less than the standard annual rate and is believed to be the result of COVID-related court challenges.

The Enforcement Division utilizes this data to determine the on-premises licensed establishments that have been identified in the highest number of § 24J reports and thus potentially pose a greater risk to public safety. In addition to this data, information is received from police departments that can identify alcohol-related harm, on the roads and highways, as well as other alcohol-related criminal activity, which appears to originate from specific licensed premises. Enforcement operations are scheduled accordingly and if a licensed establishment is found to serve alcohol to an intoxicated individual, Investigators charge the license holder with a violation of 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 licensed establishments that are subject to this enforcement.

The National Transportation Safety Board (NTSB) held hearings, where Chief Frederick Mahony testified on this program, demonstrating that the use of POLD data to guide enforcement efforts led to a reduction in OUI arrests associated with licensed 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 2022, 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 1895 licensed establishments investigated, 18 charges and 62 warnings were issued pertaining to the sale of alcoholic beverages to an intoxicated person and 464 licensed establishments were the subject of high visibility interdiction type on-premise field training; 21 charges were brought pertaining to associated issues such as sale to a minor, overcrowding or open bar regulations.

Minimum Purchase Age Compliance Checks

The objective of this program is to prevent the sale of alcoholic beverages to underage individuals by licensed establishments throughout the Commonwealth. The primary focus is to educate licensees and to increase their vigilance in the checking of identification. To achieve this objective, the Investigation and Enforcement Division conducts compliance check enforcement, often in cooperation with community groups and police departments.

Since 2009, when the Enforcement Division enhanced the compliance check program, it has conducted compliance checks at 26,844 licensed establishments, of which 970 failed (4%). This represents a 50% decrease in the failure rate when 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: 2019 - 224 municipalities, 2756 establishments checked with 96 violations (3%); 2018 - 134 municipalities, 1699 establishments checked with 45 violations (3%); 2017 - 254 municipalities, 3198 establishments checked with 96 violations (3%); 2016 - 264 municipalities, 3177 establishments checked with 114 violations (4%); 2015 - 210 municipalities, 2155 establishments checked with 35 violations (2%); 2014 - 230 municipalities, 2178 establishments checked with 63 violations (3%); 2013 - 251 municipalities, 2686 establishments checked with 72 violations (3%); 2012 - 236 municipalities, 2287 establishments checked with 78 violations (3%); 2011 - 201 municipalities, 1975 establishments checked with 135 violations (7%).

These operations were placed on hold in 2020 and 2021 due to COVID closings and to protect the health of those involved, as well as to ensure fairness for licensees.

In 2022, the Enforcement Division conducted compliance checks in 126 municipalities across the commonwealth. There were 1727 licensed establishments checked, of which 56 failed (3%). Of the licensees checked, there were 595 off-premise licensees of which 40 failed (7%); and 1132 on-premise licensees, of which 16 failed (2%).

Enhanced Liquor Enforcement Programs

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

Operation Safe Campus is conducted at on-premise licensed establishments 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 on-premise licensed establishments 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 for children under 18 years of age, 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 2022, these programs produced the following results: 691 minors in possession or transporting alcoholic beverages; 92 adults procuring alcohol for minors; 178 individuals in possession of false identification; with 289 cases of beer and 168 bottles of alcohol confiscated by Investigators, preventing delivery to approximately 2836 underage individuals.

Since 2005, these programs have resulted in the following cumulative results: 11,901 minors in possession or transporting alcoholic beverages; 3,569 adults procuring alcohol for minors; 1,690 individuals in possession of false identification; and 5,507 cases of beer and 4,680 bottles of alcohol were confiscated, preventing delivery to approximately 74,260 underage individuals.

Delivery Investigations

The online sale and delivery of alcoholic beverages increased dramatically (300%) during the COVID-19 pandemic. This method of order-delivery has opened an avenue for underage individuals to order alcoholic beverages using apps or third-party websites and have the alcoholic beverages delivered to them in public areas, near colleges and in residential communities. In December of 2021, the Division initiated investigations into this most dangerous problem and found that one hundred percent of the delivery vehicles approached by Investigators were delivering alcoholic beverages to underage individuals. The number of express transportation permits issued by the Commission has increased significantly and the process of investigating these deliveries is logistically challenging. However, in 2023 the Division plans to allocate significant resources to address this critical public safety concern.

Direct to Consumer (DIC) Investigations

In 2021 and 2022, the Enforcement Division initiated minimum purchase age compliance checks for Direct Wine Shippers licensed pursuant to M.G.L. c. 138, § 19F. The findings indicated that 96% of the companies checked accepted the order and the payment for alcoholic beverages from an underage operative under the supervision of an Investigator, 26% of the deliveries were left at the door, 43% did not obtain an adult signature and no delivery driver verified the age of the recipient. The § 19F licensees were issued warnings and Investigators held meetings with the applicable express companies to address the lack of age verification on delivery. In 2023, the Division plans to allocate resources accordingly and transition from a warning protocol to a hearing process.

Interstate and International Investigations

Massachusetts General Law c.138, § 18, provides in part that “[i]n order to ensure the necessary control of traffic in alcoholic beverages for the preservation of the public peace and order, the

shipment of such beverages into the commonwealth, except as provided in this section and sections 19F and 19G, is hereby prohibited; and §2 provides that No person shall manufacture, with intent to sell, sell or expose or keep for sale, store, transport, import or export alcoholic beverages or alcohol, except as authorized by this chapter.”

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

In recent years, the Enforcement Division has initiated investigations into the unlawful sale and delivery of alcoholic beverages by various outlets and eCommerce platforms located in states other than Massachusetts and not licensed pursuant to the Massachusetts Liquor Control Act. Investigators have also uncovered unlawful international sales and deliveries that cause concern for the integrity and safety of the alcohol beverages, whereas there have been significant reports of counterfeit alcohol products being sold from outside of the US alcohol regulatory system.

The Division has conducted numerous investigations that resulted in violations of the Massachusetts Liquor Control Act through the unlawful sale and shipment of alcoholic beverages, as well as finding that 32% of the deliveries were left at the door and only 7% verified the age of the recipient.

These unlawful sales impact the excise revenue of the Commonwealth, as well as the public safety of our citizens and the Division will continue to allocate resources accordingly to ensure compliance with the Massachusetts Liquor Control Act.

Industry Investigations

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

Source Investigations

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

Casino Enforcement

Massachusetts General Law c. 10, § 72A, provides that “the commissioner of the alcoholic beverages control commission shall establish a gaming liquor enforcement unit whose responsibilities shall include enforcing, regulating and controlling the distribution of alcoholic

beverages in a gaming establishment.” The gaming liquor enforcement unit shall work in conjunction and cooperation with the investigations and enforcement bureau within the Massachusetts Gaming Commission established in chapter 23K.” In 2022, the Division conducted approximately 205 enforcement shifts at the Encore, MGM and Plainridge casinos.

Illegal Gambling Enforcement

The Enforcement Division conducted enforcement operations to prevent illegal gambling, primarily through the use of electronic video devices, at on-premise licensed establishments throughout the Commonwealth.

Illegal Ownership - Control Enforcement

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 and received approval of 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 worked in cooperation with municipal and state law enforcement agencies to obtain optimal enforcement coverage. Most often these efforts are generated through requests from municipal police chiefs who have problematic licensees in their communities or who benefit from ABCC alcohol enforcement efforts at concert, event and sports venues, which has proven to result in significantly fewer arrests and calls for medical services.

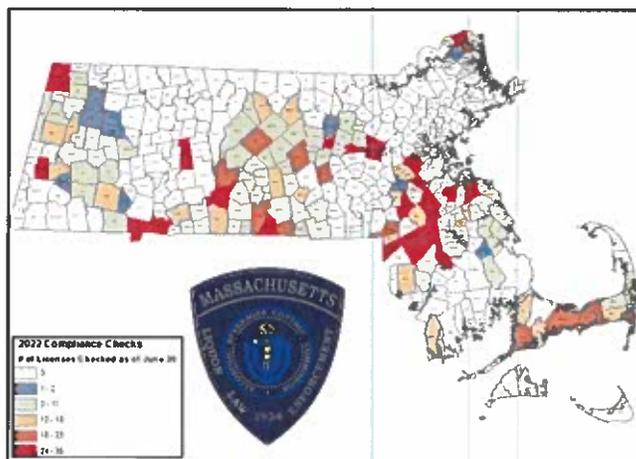
Training of Municipal and State Law Enforcement

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

License Application Investigations

In 2022, the Division completed 3,002 investigations of license applicants to ensure compliance with the Liquor Control Act and to ensure satisfactory character and fitness of the applicants. In addition to retail license applications, investigations are conducted into applications for wholesale, storage warehouse, direct wine shippers, express delivery, catering, brewery, winery and distillery licenses.





Commission Outreach Seminars:

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

In FY 2022, the ABCC conducted 18 outreach seminars focusing on e-licensing, licensing, and compliance issues. 1,145 individuals attended these seminars, representing 285 municipalities, from every county in the Commonwealth.

Legislative Changes:

During FY 2022, fifteen 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) direct amendments to certain sections of M.G.L. c. 138; and d) COVID-related legislation.

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

- A. Twelve bills¹ created excess quota licenses in twelve 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 ten all-alcohol Ch. 138, §12 (on-premises) licenses, six wine and malt Ch. 138, §12 (on-premises) licenses, six all-alcohol Ch. 138, §15 (off-premises) licenses, and two wine and malt Ch. 138, §15 (off-premises) license in the Commonwealth;
- B. One bill in one community³ authorized the conversion of one seasonal § 15 license to an annual license;

¹ Acts of 2021, Chapters 36, 50, 53, 58, 85, 116, and Acts of 2022, Chapters 7, 31, 63, 66, 69, and 91.

² Berkley, Clinton, Concord, Easton, Lunenburg, Mansfield, Maynard, Millbury, Norwood, Sudbury, Wareham, and Webster.

³ Westfield, Acts of 2022, Chapter 9

- C. One bill in one community⁴ extended the time frame to issue excess quota licenses by a year; and
- D. One bill extended outdoor alcohol service and to-go alcohol for on-premises licensees.⁵

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 Commission obtains 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**

⁴ Westford, Acts of 2021, Chapter 26.

⁵ Acts of 2022, Chapter 42.

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 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 stated certain wineries could be permitted 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 which 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.

- 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 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 fair and practical 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 Gaming Commission to consider an applicant’s rehabilitation and whether such conviction should be an automatic disqualification under the 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 Enterprises

The Farmer Brewer current definition does 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 or imports 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.

- 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:

§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

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 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 improvement 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 along with hearing and enforcement actions are processed through e-Licensing. This capability became invaluable during the COVID-19 Pandemic. The agency is planning on implementing a mobile version of e-licensing to allow investigators in the field full access to the licensees' records while on the licensees' premises.

Investigators 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 teamwork in 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 approached consideration of proposed amendments to the Liquor Control Act.

Respectfully Submitted,

ALCOHOLIC BEVERAGES CONTROL COMMISSION

A handwritten signature in black ink that reads "Jean M. Lorizio". The signature is written in a cursive, flowing style.

Jean M. Lorizio, Esq., Chairman