

ALCOHOL LICENSEE SEMINAR

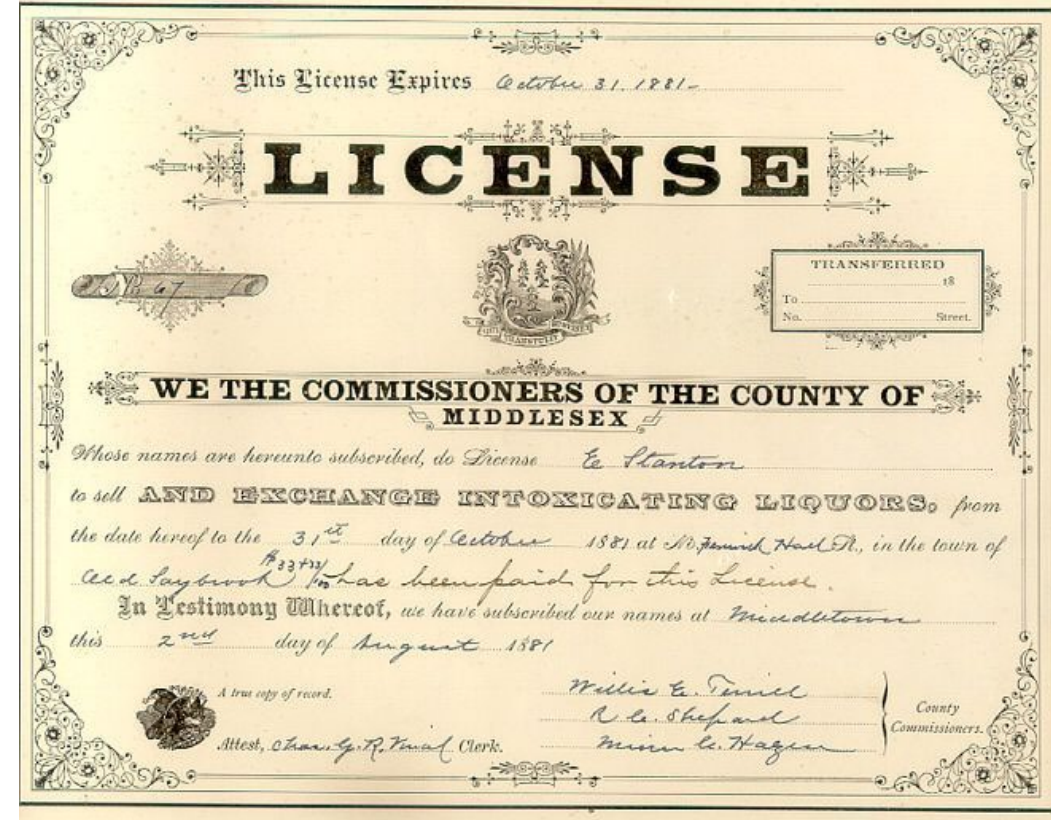
WELCOME!

TODAY'S SPEAKERS:

- **Commissioner Jean M. Lorizio, Esq., Chair of the Alcoholic Beverages Control Commission (ABCC)**
- **Ralph Sacramone, Executive Director of the Alcoholic Beverages Control Commission (ABCC)**
- **Kyle E. Gill, Esq., General Counsel, Alcoholic Beverages Control Commission (ABCC)**
- **Ryan Melville, Deputy Executive Director of the Alcoholic Beverages Control Commission (ABCC)**
- **Thomas Carroll Community Outreach & Resource Planning Specialist US Department of Labor**

Changes to an existing license:

- Change of Ownership
- **Transfer of Stock, Issuance of stock/new stockholders**
- Change of Name and/or change of d/b/a
- **Change of Officers/Directors/Trustees or change in the corporate structure (such as changing from INC to LLC)**
- Renovations or alterations to the premises (Abutter notification requirement.)
- **Change of Manager**
- Change of Hours (including Sundays)- Licensees may not utilize their licenses before or after approved hours.
- Change of location
- Outside Seating (Approval Process)



ABCC NAVIGATION OF WEBSITE

<https://www.mass.gov/orgs/alcoholic-beverages-control-commission>

Applications

Commission Advisories

Commission Decisions

Frequently Asked Questions and Guidelines in Multiple Languages

Purchasing alcohol from authorized sources:

Restaurants, clubs and
package stores cannot
purchase any alcohol from
a package store, big box
store and/or out-of-state
entities. Alcohol must be
purchased from a
Massachusetts licensed
wholesaler/manufacturer.

MGL c. 138 §23



Section 12 and Section 15 Licensees with Same Owner Entity

- Alcohol cannot be transferred between entities.
- Each entity is its own business.
- If this action occurs, the Licensee transferring its alcoholic beverages is acting as a wholesaler which is a violation.
- The Licensee receiving the alcoholic beverages will be possessing alcoholic beverages that it is not authorized to sell which is a violation.



Delivery of alcohol:

- A Section 15 licensee is allowed to deliver to Massachusetts consumers if the entity holds a Section 22 transportation permit. They may also use third parties licensed pursuant to M.G.L. c. 138, Section 22 as an express transportation licensee.
- Takeaway/delivery of mixed drinks (Mixed Drinks To-Go): Section 12 establishments licensed for on-premises consumption of mixed drinks may permanently continue takeaway and delivery sales of mixed drinks. All mixed drinks sold for takeaway/delivery must be sold with food and at the same price/proportion as mixed drinks for on-premises consumption. Beer and wine by themselves are not included nor are unopened “ready to drink” cocktails.
- A Section 12 licensee is allowed to deliver mixed drinks **with at least 1 item of food prepared on-site sufficient to serve 1 individual** to Massachusetts consumers if the entity holds a Section 22 transportation permit. They may also use third parties licensed pursuant to M.G.L. c. 138, Section 22 as an express transportation licensee.
- Sale and delivery of the alcohol extends to the front door of the home to which alcohol is being delivered.
- Licensee’s Delivery Agent must verify the legal age and check ID of recipient at the time of delivery.





Commonwealth of Massachusetts
Office of the State Treasurer
Alcoholic Beverages Control Commission

EXPRESS TRANSPORTATION PERMIT

M.G.L. c. 138, § 22

This Permit authorizes the following permittee to transport and deliver alcoholic beverages and alcohol in its vehicles:

ABCC TRAINING, Inc.

100 2nd Street
San Francisco, CA 94107

Approved by the Alcoholic Beverages Control Commission on November 25, 2024

Handwritten signature of Jean Lorizio in black ink.

Jean Lorizio, Chairman

Handwritten signature of Crystal Matthews in black ink.

Crystal Matthews, Commissioner

Handwritten signature of Deborah Baglio in black ink.

Deborah Baglio, Commissioner

Master Permit Number: **XM-LIC-000499**
Record Number: **2024-000127-XM-REN**
Number of Vehicles: **9000**

THIS PERMIT WILL EXPIRE DECEMBER 31, 2025 UNLESS REVOKED OR CANCELLED DURING THIS PERIOD

THIS PERMIT SHALL BE CARRIED IN THE VEHICLE AT ALL TIMES

COMPLIANCE CHECKS

- Compliance Checks are a training tool required by law.
- Municipality and ABCC must conduct compliance checks.
- Compliance checks are intended to help the licensee comply with the law and local regulations.
- Compliance checks occur at brick-and-mortar locations as well as at deliveries of alcoholic beverages.





IDENTIFICATIONS THAT LICENSEES MAY REASONABLY RELY ON

Identification of Patrons. Licensees shall ensure that the identification of persons purchasing alcoholic beverages occurs at the point of sale or service.

KNOW THE SIX ACCEPTABLE FORMS OF IDENTIFICATION

1. Massachusetts Driver's License
2. Massachusetts Liquor ID Card
3. Massachusetts ID Card
4. Passport Issued by the United States or a government that is officially recognized by the United States
5. A Passport Card for a Passport issued by the United States
6. A Military Identification Card
7. Valid Driver's License issued by another state (beginning 4/8/2025)
8. Global Entry Card issued by US Customs and Border Protection (beginning 4/8/2025)



204 CMR 2.05(2)- Permitting an illegality on the licensed premises, to wit: M.G.L. c. 138, § 34C- Possession of an alcoholic beverage by a person under 21 years of age (Underage drinking with parent(s) or guardian(s) is not allowed by law).

Exception: 18,19, and 20 year olds may handle alcoholic beverages in the course of their employment. This includes selling and transporting alcoholic beverages as well as working as a bartender, stocking shelves, and removing alcoholic beverages from tables (No person under 21 may drink an alcoholic beverage at any time).

Employees 17 years old and under **cannot** handle alcoholic beverages in any manner during their employment. 10

OVERSERVING COMES BACK TO THE LICENSEE

“last place of drink”

MGL c. 90 § 24J

Prior to sentencing for conviction of
DUI or guilty plea for DUI,
the guilty party must identify the
name and location of the last place at
which the individual was served.



THE COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX DISTRICT ATTORNEY
40 THORNDIKE STREET CAMBRIDGE, MA 02141

Tel: 617-679-6500
Fax: 617-225-0871

January 16, 2004

License Commission
Government Center
119 School Street
Waltham, MA 02154

Dear Sir/Madam:

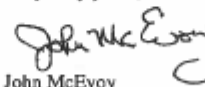
Please be informed that the Middlesex District Attorney's Office was notified pursuant to G.L. c. 90, § 24J, that *Jane Doe* informed the Waltham District Court that, prior to committing a motor vehicle violation which involved driving under the influence of intoxicating liquors, she was served alcohol on 10/01/2003 at the following establishment licensed to serve alcohol:

Sacramone's Pub
1 Main Street
Waltham, MA 02154

It is my belief that alcohol and substance abuse is a problem of major proportions in Middlesex. More specifically, the combination of such abuse and driving a motor vehicle is a threat to the lives and safety not only of the abuser, but also of the general public.

This letter is not meant to accuse the establishment of criminal or negligent conduct. The defendant's statement was not made under oath and may or may not be reliable. Nevertheless, because of the importance of the drunk driving issue, we bring this information to your attention for whatever action you may deem appropriate.

Very truly yours,


John McEvoy
First Assistant District Attorney

MGL c. 138 § 63A- Hindering or delaying investigator, inspector, or agent of Commission

ABCC, Police, Fire, City Inspectors are authorized to inspect the licensed premises at any time.

Police Department has authority to investigate potential violations of the law at a licensed premises on behalf of the Board, and conduct enforcement.

The Licensee should ensure that staff is aware and prepared to assist in allowing inspection of the licensed premises and responsive to questions during inspection.



Licensees have a duty to protect their patrons and others from foreseeable harm

A Licensee's duty to protect patrons may be triggered when the conduct of another patron puts the Licensee or its employees on notice that harm is imminent.

A Licensee may discharge its duty to protect patrons by taking steps to prevent the harm, such as calling the police.

It is the responsibility of each licensee to exercise close supervision of its premises to ensure compliance with the law.

There has been an increase in non-consensual drugging at bars, clubs, and other licensed premises. Licensees are asked to be vigilant.



FOOD AND BEVERAGES CONTAINING HEMP DERIVED CBD AND/OR THC ON LICENSED PREMISES

Please be advised that it is unlawful to manufacture and/or sell food or beverages containing hemp derived CBD and/or THC. This applies to alcoholic and non-alcoholic beverages. These products must be taken off the shelf immediately. Any licensee found in violation of importing, manufacturing, transporting, selling, and/or possessing on its licensed premises food and/or beverages containing hemp derived CBD and/or THC faces potential suspension or revocation of its license. Wholesalers must retrieve all food and beverages containing hemp derived CBD and/or THC sold and/or delivered by them to retail licensed premises at or before their next delivery to each establishment. This Advisory does not apply to marijuana products manufactured under the jurisdiction of the Cannabis Control Commission.

* It has always been illegal for alcoholic beverages to contain any CBD and/or THC. Alcoholic beverages containing CBD and/or THC are considered adulterated beverages.

CHANGES TO M.G.L. c. 138, § 26- RETAIL LICENSE MANAGERS

Local Boards may now approve a license manager who is either a United States citizen or a “qualified alien under the Immigration and Nationality Act, 8 U.S.C. 1101.”

If a proposed license manager is not a United States citizen, they must provide documentation from the United States federal government evidencing they are a “qualified alien under the Immigration and Nationality Act, 8 U.S.C. 1101.” Acceptable documentation includes but is not limited to a Permanent Resident Card “Green Card,” or Employment Authorization Document.

The law also authorizes sole proprietors and partnerships to apply for retail alcoholic beverages licenses issued pursuant to M.G.L. c. 138, § 12 (on-premises) and M.G.L. c. 138, § 15 (off-premises) if all individuals applying are either United States citizens or “qualified alien(s) under the Immigration and Nationality Act, 8 U.S.C. 1101.” This applies to former series pouring permits issued pursuant to M.G.L. c. 138, §§ 19 B(n), C(n) and E(o) as well.

Know the Requirements for Club Licenses

MGL c. 138, §12



- Alcoholic beverages may only be served to members of the club who are 21/older.
- If the member leaves the club, the member's guest must leave the premises and can no longer be served alcohol.
- Clubs are required to file annual reports with the Board and the Commonwealth of Massachusetts.
- Clubs may only operate during hours approved by the Local Licensing Authority and the ABCC.
- Clubs must purchase alcoholic beverages from authorized sources such as licensed Massachusetts wholesalers/manufacturers.

Working Together

Connect with the Police Department for Assistance

- **TEAMWORK AND COMMUNICATION ARE THE KEYS TO A WELL-RUN ESTABLISHMENT**
- **Contact your Local Police Department, Local Licensing Authority, and seek other resources for assistance to run an establishment in compliance with municipal licensing rules and ordinances and Massachusetts statutes and regulations**
- **Licensees should use available resources as well as keep communications open to prevent issues. Licensees should not hesitate to contact the following state and federal agencies:**
 - Alcoholic Beverages Control Commission “ABCC” [617-727-3040]**
 - Department of Industrial Accidents “DIA” [617-727-4900]**
 - Attorney General’s Office “AGO” [617-727-3465]**
 - United States Department of Labor “USDOL” [617-624-6700]**
- **Other issues: overcrowding, promoters, and cover charges.**

Department of Industrial Accidents

<https://www.mass.gov/orgs/departments-of-industrial-accidents>

Workers' Compensation Insurance Requirements

- all employers are required to carry workers' compensation insurance for their employees and themselves at all times (cannot lapse)

- stop work order can be issued to employers who don't have workers' compensation insurance, and fines are \$100/day beginning on the date the stop work order is issued

DIA online Guides and Resources:

Employer's Guide to Workers Compensation – in multiple languages

<https://www.mass.gov/doc/employers-guide-to-workers-compensation-english-o/download>

Commonwealth of Massachusetts
Department of Industrial Accidents
Lafayette City Center
2 Avenue de Lafayette
Boston, MA 02111-1750

EMPLOYER'S GUIDE TO THE MASSACHUSETTS WORKERS' COMPENSATION SYSTEM

Esta guía está disponible en español en nuestro sitio electrónico: www.mass.gov/dia

Este Guia está disponível em português no nosso site: www.mass.gov/dia

Es manual sta skritu na Kriolu di Kabu Verdi prontu pa bu uzu na website (pagina na internet): www.mass.gov/dia

本指南的中文版位於我們的網址：
www.mass.gov/dia

Có Hướng Dẫn này bằng tiếng Việt Nam tại mạng lưới của chúng tôi: www.mass.gov/dia

W ap jwenn gid sa a ekri nan lang kreyòl sou sit entènèt nou an: www.mass.gov/dia

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www.mass.gov/dia

يتوفر هذا الدليل باللغة العربية على موقعنا الإلكتروني على الويب:
www.mass.gov/dia



MA Office of the Attorney General

- Many businesses are grappling with policies regarding **diversity, equity, inclusion, and access**. Attorney General Campbell has issued helpful guidance for businesses on this topic:

www.mass.gov/doc/multi-state-guidance-concerning-diversity-equity-inclusion-and-accessibility-employment-initiatives/download

- The state's **earned sick time law** was recently broadened to explicitly allow workers to use earned sick time to care for themselves or their spouse in the event of pregnancy loss or failed assisted reproduction, adoption, or surrogacy. This new permissible use became effective November 21, 2024.

Download the updated MA Earned Sick Notice of Employee Rights (required poster) here:

www.mass.gov/ago/earnedsicktime

- The **Salary Range Transparency Act** is a new law for MA employers. We have an FAQ, guidance, and information about a free webinar here:

www.mass.gov/info-details/pay-transparency-in-massachusetts



Restaurant Workers

An Overview of the Fair Labor Standards Act (FLSA) with focus on the MA restaurant industry.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-4-US-WAGE

FLSA in the restaurant industry

- **Minimum Wage**
 - Minimum Wage and minimum wage for Tipped Employees
 - Hours Worked
 - Rest / Meal Periods (20 minute rule)
 - Illegal Deductions for minimum employees (uniform / walk outs / breakage)
- **Overtime** Time and ½ the employees regular rate of pay for all hours worked over 40 in a work week (total wages for week divided by total hours) i.e Dual Jobs
- Overtime wages for tipped employees
- All hours counted and each work week stands alone
- **Child Labor** 14 and 15 year olds (limit on hours/time worked and hazardous occupation restrictions)
- 16 and 17 year olds (hazardous occupation restrictions)
- **Record Keeping** Employer must maintain the following for 3 years:
 - name and contact information for all employees (including workers from third party agencies such as a temp agencies. Joint employers
 - All information on any independent contractors used by the employer.
 - Accurate time records, payroll and general ledgers

Common violations in the restaurant industry:

Federal **minimum wage** for tipped employee is \$2.13 per hour plus tips; hourly minimum wage is \$7.25.

MA state minimum wage for tipped employees is \$6.75 per hour plus tips; hourly minimum wage is \$15

The employer must comply with both federal and state regulations thus:

minimum wage for tipped employees is \$6.75 per hour plus tips; hourly

minimum wage is \$15.00. Tips are the property of the employee. Tip Pool.

MA state law does not require **overtime pay** in the hospitality industry.

Federal law **requires** overtime be paid at time and ½ the employees' regular rate of pay for all hours worked over 40 in a workweek.

The employer must comply with both state and federal regulations, thus:

overtime must be paid at time and ½ the employees' regular rate of pay for all hours worked over 40 in a workweek.

Common violations in the restaurant industry continued:

- If a tipped employee works **overtime**, the tipped employee must be paid \$14.25 per hour plus tips for all hours worked over 40 in a work week. (\$6.75 PLUS half time of \$15 or \$7.50 which = \$14.25)

A common error – employer pays time and ½ of \$6.75 which is incorrect.

Not all salaried employees are exempt from overtime pay. Kitchen employees such as prep cooks, line cooks, dishwashers are **not** exempt from overtime pay and must be paid time and ½ their regular rate of pay for all hours worked over 40 in a work week. Example...if a line cook receives a weekly salary of \$1000 for all hours worked, and works 50 hours in a workweek, the regular rate of pay would be \$1000 divided by 50 hours or \$20 per hour. The employee needs to be paid half time of \$20 or \$10 for 10 hours of overtime or an additional \$100 for the week. Only managers of 2 or more full time employees, and chefs are exempt from overtime pay if they receive a guarantee of \$684 per week, every week.

Labor laws cover all workers, regardless of immigration status

Rest and Meal Periods



- **Short rest breaks** (20 min or less) are compensable.
- **Bona fide meal periods** (typically 30 minutes or more) need not be paid as hours worked.
- Worker must be completely relieved of duty for meal period not to be paid time.

Child Labor

Hours Restrictions in **non-agricultural** jobs...

- Apply to 14- and 15-year-olds only
- Not during school hours
- No more than 3 hours on a school day or 8 hours on a non-school day
- No more than 18 hours during school weeks or 40 hours during non-school weeks
- Not before 7 a.m. and not after 7 p.m. except from June 1 to Labor Day when the time is extended until 9 p.m.

Misclassification

Misclassified employees are often denied:

- Minimum wage
- Overtime pay
- Health insurance
- Workers' compensation
- Unemployment insurance

	EMPLOYEE	OR	INDEPENDENT CONTRACTOR
	Working for someone else's business		Running their own business
	Paid hourly, salary, or by piece rate		Paid upon completion of project
	Uses employer's materials, tools and equipment		Provides own materials, tools and equipment
	Typically works for one employer		Works with multiple clients
	Continuing relationship with the employer		Temporary relationship until project completed
	Employer decides when and how the work will be performed		Decides when and how they will perform the work
	Employer assigns the work to be performed		Decides what work they will do

FIND ABCC information and resources and FAQs in Multiple Languages ONLINE

Website Resources: ABCC:

<https://www.mass.gov/orgs/alcoholic-beverages-control-commission>

Frequently Asked Questions

<https://www.mass.gov/doc/faqsenglish/download>



- [Alcoholic Beverages Control Commission | Mass.gov](#)
- [Frequently Asked Questions \(Multilingual\) | Mass.gov](#)

RESOURCES

ABCC Frequently Asked Questions Fall 2022 Update:

https://www.mass.gov/doc/faqs-english/download?_ga=2.160262840.484087346.1704376859-1564321691.1675104142&_gl=1*gpx8zn*_ga*MTU2NDMyMTY5MS4xNjc1MTAoMTQy*_ga_MCLPEGW7WM*MTcwNDQwMjEwOC4xMy4wLjE3MDQoMDIxMTIuMC4wLjA.

DIA Employer's Guide to Workers' Compensation

<https://www.mass.gov/info-details/employers-guide-to-workers-compensation>