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## **ALCOHOLIC BEVERAGES CONTROL COMMISSION**

### **ANNUAL REPORT**

Every day, the Alcoholic Beverages Control Commission (the “ABCC”) 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. For this performance level, the ABCC has repeatedly received national awards and recognition for innovation and effectiveness.

In fiscal year 2013, the Commission generated approximately \$ 4.2 million 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 \$13.8 million dollars in back tax payments and penalties. These results were achieved with an annual budget of \$2.4 million, 26 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 and of the conduct and condition of traffic in alcoholic beverages during the **fiscal year ending June 30, 2013**. Below please find a statement of the Income received from 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 2012**.

**Financial Statement:**Summary of Income Received from Fees for Licenses and Permits Issued by the Commission  
under Chapter 138 of the General Laws

Manufacturers' License Fees	§19, all alcohol	\$54,294
	§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	\$971,153
	§18, wine and malt beverages	
	§18, sacramental wines	
Retail Alcohol Application Fees	§12, on-premises	\$486,215
	§15, off -premises	
	Additional Package Store	\$105,200
Agents,' Brokers' or Solicitors License Fees	§18A	\$345,000
Railroad License Fees	§13, railroad master	\$6,650
	§13, railroad cars	
	§22, railroad cargo	
Airplane License Fees	§13, airline master	\$39,450
	§13, airline flights	
	§22, airline cargo	
Ship License Fees	§13, ship master	\$57,000
	§13, ship chandler	\$2,000
	§22, ship cargo	
Commercial License Alcohol Fees	§76	\$2,500
Special Permit License Fees	§22A, import household effects/gifts	\$26,734
	charity wine	
	§22A, license inventory liquidation	
	§22A Consumer Research Permits	
Storage Permit Fees	§20, bonded	\$58,000
	§20A, public	
	§20, storage	
	§Registration Certificate of Compliance	
Transportation Permit Fees	§22, transportation and delivery	\$220,600
	§22, express company permits	\$200,650
Salesman Permit Fees	§19A	\$706,100
Caterer's License	§12C	\$59,250
Certificates of Compliance Fees	§18B	\$590,200
Fine in Lieu of Suspension Fees		\$229,110
Miscellaneous Income		\$4,666
Total Receipts		\$4,164,771

This represents a 10% increase from fiscal year 2012.

## STATEMENT OF APPROPRIATIONS AND EXPENDITURES

General Appropriation for fiscal year 2013	\$2,400,000
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**Additional Income to the Commonwealth:** As stated previously, in fiscal year 2013, with the Commission's assistance, the Departments of Unemployment Assistance (DUA), and Revenue (DOR), collected taxes from delinquent licensees in the amount of \$13.8 million dollars from Massachusetts alcoholic beverages licensees. This represents a 40% increase over fiscal year 2012.

**Alcoholic Beverages Licenses & Permits Issued For Calendar Year 2012:**

<b>Type</b>	<b># Issued</b>	<b>Category</b>
Manufacturers' License	2	§19, all alcohol
	2	§19, wine and malt beverages
	11	§19E, distilleries
	41	§19C, breweries
	53	§19B, wineries
	14	§19D, pub brewery
	57	§19F, winery shipment
Wholesalers' and Importers' License	75	§18, all alcoholic beverages
	67	§18, wine and malt beverages
	4	§18, sacramental wines
Retail Alcohol License	8505	§12, on-premises
	2790	§15, off -premises
Agents,' Brokers' or Solicitors License	12	Additional Package Store
	91	§18A
Railroad License	3	§13, railroad master
	89	§13, railroad cars
	0	§22, railroad cargo
Airplane License	17	§13, airline master
	530	§13, airline flights
	0	§22, airline cargo
Ship License	116	§13, ship master
	2	§13, ship chandler
	0	§22, ship cargo
Commercial License Alcohol	2	§76
Special Permit License	187	§22A, import household
	76	charity wine
	0	§22A, license inventory
	17	§22A Consumer Research
Storage Permit	0	§20, bonded
	22	§20A, public
	15	§20, storage
Transportation Permit	1589	§22, transportation and delivery
	3781	§22, express company permits
Salesman Permit	2369	§19A
Certificates of Compliance	2190	§18B
Caterer's Section 12C License	3	§12C

**In calendar year 2012**, the Commission issued **24,965** licenses for alcoholic beverages, a 20% increase from calendar year 2011

### **Commission Hearings:**

The ABCC conducts hearings relative to charges filed by Commission Investigators, license applications, licensees that are delinquent in taxes due DOR, DUA or lottery proceeds, industry level franchise cases and also provides the first level of administrative review for licensees aggrieved by a decision of the local licensing authorities. The Commission scheduled 424 and conducted 333 hearings in fiscal year 2013. Below are the hearing types.

#### **Hearing Type**

Violation	165
Informational (license applications)	76
Appeals	27
Tax /Lottery	43
Public Hearing	4
25E	11
Withdrawn	91
Public LLA/Industry Meetings	7

### **Investigation and Enforcement Division:**

Special Investigators of the Investigation and Enforcement Division are appointed by the Chairman pursuant to Massachusetts General Laws Chapter 10, §72. The Investigators are authorized and directed, pursuant to Massachusetts General Laws Chapter 138, §56, to make all needful and appropriate investigations to enforce the Liquor Control Act.

#### **License Application Investigations**

The Investigators examined 2,702 license applications for both retail and state or “industry level” licenses.

#### **Enforcement Actions**

##### *Complaints*

The Investigation and Enforcement Division receives complaints from the general public, local and state police, federal agencies and various public interest groups. These complaints range from underage drinking, sales of alcohol to intoxicated individuals, illegal gambling activity, illegal alcoholic beverages, illegal ownership interests at licensed premises and illegal narcotics activity. In calendar year 2012, the Enforcement Division investigated 525 complaints that were filed with the Commission.

##### *Violations*

The Investigation and Enforcement Division conducted enforcement operations in approximately 236 municipalities throughout the Commonwealth. Investigators observed approximately **498 violations** of the Liquor Control Act, of which over **257 reports** were submitted to the Commission for hearing. These violations ranged from underage drinking, sales of alcohol to intoxicated individuals, illegal gambling, illegal alcoholic beverages, illegal narcotics activity and illegal ownership interests at licensed premises.

In addition, the Investigation and Enforcement Division conducted a series of special operations:

- *Minimum Purchase Age Compliance Checks*

The objective of these compliance checks 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 for checking proof of age. In Calendar Year 2012, the agency conducted Compliance Checks, in **236 municipalities** across the Commonwealth. The Investigators conducted operations in **2287 licensed establishments**, of which **78 failed (3%)**. This represents an outstanding **success rate of 97%**, and puts *Massachusetts well above of the national average* success rate of 84%.

- *Enhanced Liquor Enforcement Programs*

The Commission recognizes that there are certain periods of time throughout the year that increased consumption of alcoholic beverages poses a heightened risk to public safety. As a result, the Commission has implemented a number of programs to proactively target specific events and time periods throughout the year. These programs include Operation Safe Campus, Operation Safe Prom and Graduation, Operation Safe Summer, and Operation Safe Holidays.

The objective of these operations is to prevent the procurement of alcoholic beverages by and for underage individuals and to prevent the sale of alcohol to visibly intoxicated individuals.

*Parent Notification Program:* When Investigators find underage individuals in possession of alcoholic beverages or false identification, they call the individual's parents from liquor store parking lots or bars and inform them of the situation their child is in. Investigators have found that this type of intervention is a powerful tool toward a long-term family involvement in addressing the problem of underage drinking.

- *Illegal Gambling Enforcement*

The Investigation and Enforcement Division has conducted numerous enforcement operations involving illegal gambling at licensed premises throughout the Commonwealth. The primary focus of these investigations is the illegal use of electronic poker machines for the purpose of illegal gambling.

- *Cooperative Enforcement with State and Local Law Enforcement Agencies*

The Investigation and Enforcement Division works in conjunction with local and state police departments in order to obtain optimal enforcement coverage. Most often, these efforts are generated from requests for assistance from local police chiefs who have problematic licensees in their communities or local conflicts of interest that are mitigated and avoided through ABCC cooperation.

In 2012, the Investigation and Enforcement Division conducted joint enforcement efforts with the State Fire Marshall to ensure compliance with the Massachusetts Fire Code, particularly at large venues where overcrowding and improper fire prevention measures have been problematic.

Also in 2012, the Investigation and Enforcement Division, at the request of the Boston Police Department Command Staff as well as the Massachusetts State Police, conducted enforcement of vessels licensed to sell alcoholic beverages operating out of Boston Harbor. This enforcement was initiated after a shooting on the dock of a Boston based vessel and enhanced, on a near weekly basis, throughout the summer months of 2012. To kick off this effort, Investigators conducted law enforcement training in Detection of Fraudulent Identification and Enforcement of the Liquor Control Act for the Massachusetts State Police

and Mass Port Police at Troop F, Logan Airport and the Seaport District. Investigators then also conducted training in Detection of Fraudulent Identification and the Liquor Control Act for the Massachusetts Vessel Licensees in the Seaport District.

At the request of the Mansfield Police, the Investigation and Enforcement Division conducted enforcement operations at the Comcast Center in Mansfield for Country Fest 2012. The extent of ABCC enforcement included monitoring area liquor stores prior to the parking lot opening, parking lot enforcement up until the beginning of the concert and then enforcement within the licensed premises. The results of this enforcement operation included: approximately 200 minors in possession of alcohol; 30 arrests; 20 narcotics seizures; numerous medical assists as well as intoxicated or incapacitated assists and the seizure of 80 bottles of alcohol, 50 cases of beer and 75 bottles of miscellaneous containers of alcohol.

Finally, in 2012, the Investigation and Enforcement Division, in cooperation with Worcester and Boston police, conducted underage drinking enforcement operations at “Blackout Parties” that took place in Boston and Worcester. In Boston approximately 60 False ID’s were seized, 50 PBT tests were conducted and over 600 underage individuals were turned away for entry upon determination that they had consumed alcohol or were intoxicated. In Worcester the results of this enforcement operation included: 10 arrests, 20 medical assists, 20 False ID’s were seized, 30 PBT tests were conducted and over 300 underage individuals were turned away upon determination that they had consumed alcohol or were intoxicated.

## **Education and Training**

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

- **Commission Outreach Seminars**

In fiscal year 2013, the Alcoholic Beverages Control Commission conducted regional outreach training seminars for all Local Licensing Authorities located in Berkshire, Franklin, Hampshire, Hampden, Worcester, Plymouth, Bristol, Barnstable, Duke, and Nantucket, Norfolk, Suffolk, Middlesex and Essex Counties. This resulted in licensing training sessions for 107 municipalities. The outreach consisted of training sessions about the ABCC’s website, special one day licenses and permits, the application process, and the annual renewal process.

- **Training of Municipal and State Law Enforcement**

The Investigation and Enforcement Division works with Massachusetts police academies and police departments to educate local and state law enforcement officers in the enforcement of the Massachusetts Liquor Control Act as well as false identification and fraudulent document detection. This training enhances the prevention of underage drinking and over service by developing police knowledge of and involvement in liquor law enforcement. In calendar year 2012, this training was provided for 111 Police Departments and 409 Police Officers.

## **Happy Hour Study:**

The Commission was directed by the Legislature in July 2011 to study whether recently enacted gaming legislation would result in unfair competition to alcoholic beverages licensees, such that the Happy Hour Regulation should be amended. As a result, the Commission held five public hearings around the Commonwealth, to solicit comment and testimony regarding whether the “Happy Hour Regulation” (204 CMR 4.00, et seq.) should be updated or amended in order to protect on-premises alcoholic beverages licensees from unfair competition with proposed gaming establishments. These hearings were held

pursuant to Massachusetts General Laws Chapter 10, §70, §71 and §72, Chapter 138, §1 and §24, Chapter 30A, and §106 of Chapter 194 of the Acts of 2011.

The Commission published notice of these hearings in the local newspapers, on its website and on the Secretary of State's Office website. Furthermore, the Commission sent notice to all of the Local Licensing Authorities to inform their licensees of the hearings. The hearings were held on May 15, 2012 at the Moakley Center at Bridgewater State University, June 9, 2012 at the Chelmsford Police Station, July 17, 2012 at the Worcester City Hall, August 21, 2012 at the McCormick Building, One Ashburton Place in Boston, and September 18, 2012, at the Northampton Senior Center.

The Commission completed this report, "Report of the Alcoholic Beverages Control Commission to the Governor, the Treasurer, the Senate and the House of Representatives pursuant to Section 106 of Chapter 194 of the Acts of 2011", on January 31, 2013. The overwhelming response from the public and the licensees was not to amend the current regulations.

### **Legislative Changes:**

During fiscal year 2013, 21 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 each of these bills. Each of these bills falls into one of four categories: a) excess quota licenses; b) conversion of seasonal licenses to annual licenses; c) ballot questions to amend specific Local Licensing Boards' structure and authority; and, d) the creation of a new type of state license for caterers.

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

- A. Ten Bills<sup>1</sup> created excess quota licenses in nine different communities<sup>2</sup> through the communities' exercise of their right to "home-rule" as it exists under the Massachusetts Declaration of Rights;
- B. One Bill<sup>3</sup> in one community<sup>4</sup> authorized the conversion of a seasonal license to an annual license that would exist above the population-based quota;
- C. Three Bills<sup>5</sup> in two communities<sup>6</sup> authorized a ballot question to consider changing the structure and licensing authority of the Local Liquor Licensing Boards in said communities;
- D. One Bill<sup>7</sup> amended the Liquor Control Act by creating a new state license type for Caterers.<sup>8</sup>

### **Commission Initiatives:**

#### **• Streamlined tax approval process for Retail License Applications**

Effective May 28, 2013 the ABCC took additional steps to streamline the retail license approval process to benefit the retail beverage alcohol business community. The license process includes a requirement that applicants receive a release from the Department of Revenue (DOR) that all tax obligations have been met. Although the applications were forwarded to DOR upon arrival at the ABCC, at times the process was lengthy. As a result, prospective businesses had experienced some delays attaining the required release.

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1 Chapters 149, 280, 282, 306, 328, 334, 376, 381, 384, 436.

2 North Andover, Somerville, Easthampton, Fairhaven, Braintree, Boston, Webster, Seekonk, and Erving.

3 Chapter 333.

4 Seekonk.

5 Chapters 207, 269, 272.

6 Southbridge and Needham

7 Chapter 190.

8 Creation of General Laws Chapter 138, §12C.

Consequently, we communicated with DOR and found a collaborative solution to modernize the process by allowing license applicants to obtain the required tax releases prior to applying for licenses. This efficient process allows the licensing authorities to consider license applications without delays.

- **eLicensing Project Update**

In fiscal year 2012, through the Massachusetts Information Technology Division (ITD) sponsorship and the agency partnership of ABCC and the Department of Public Licensure (DPL), Accela was selected as the best solution to meet the complex needs of the Commonwealth's licensing agencies. Much progress has been made in fiscal year 2013. The procurement team selected Accenture as the eLicensing system integration services vendor, and began contract negotiations. The project implementation is expected to last 18 months with three scheduled releases. The project plans to kick off in February of 2014.

The ABCC is currently preparing for this tremendous project by planning for the conversion, documenting business process re-engineering, and verifying the existing data integrity. There are three parallel projects to bridge any gaps in our current paper-based system. These projects will ultimately be incorporated into the eLicensing Project and will maximize the eLicensing functionality.

The Scanning and Conversion Project will convert all of our paper files to electronic files and index them for searching and retrieving.

The Electronic Document Management System will be a repository for all of the scanned documents from both the historical paper files and any new scanned documents that will come into the ABCC in the future. This repository will link to Accela, allowing for seamless search and retrieval capabilities.

The Data Entry Project will hire expeditors to enter in historical data that is not currently captured in the database.

Once implemented, e-licensing will improve customer service, streamline administrative processes, standardize technology across agencies, and continue to move the Commonwealth towards the goal of transparency in all information.

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

In FY13, the ABCC requested capital funding from ITD to fund an Electronic Document Management System (EDMS) and a Scanning and Conversion project. The ABCC anticipates that the capital project will be approved and funds made available in FY14.

- **Certificate of Compliance Master Price Posting Filing Process**

As part of our ongoing efforts to streamline the license application procedure, we recently implemented a more efficient way for Certificate of Compliance license holders to file their annual required Schedule of Master Price Postings (SMPP). Prior to this process, COC holders would have to mail in their SMPP via the US postal service, an ABCC licensing staff would have to open the mail, match the SMPP to the licensee and physically file the posting in the licensee's file. Under this new plan, licensees are able to email their SMPP directly to the ABCC, which will automatically scan it and file it in an Electronic Document Management System (EDMS). The document management system is directly linked to the ABCC database. Having all of the SMPP in one place allows them to be searchable and makes reporting and data analysis possible. This analysis of data allows us to continuously think of ways to better serve the Certificate of Compliance holders. In addition, eliminating the need to physically file over 2,000 reports annually, the ABCC is now able to process renewals and applications much faster and spend



more time on licensing tasks. Further, this process has increased transparency between licensees and makes monitoring compliance easier for both the licensee and the ABCC.

**General Remarks:**

We wish to express our appreciation to the Local Licensing Authorities for the cooperation and assistance they have given us in the administration and enforcement 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, appearing to read 'K S Gainsboro', with a stylized flourish at the end.

Kim S. Gainsboro, Esq., Chairman