



Steven Grossman
Treasurer and Receiver General

The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Boston, MA 02114

Kim S. Gainsboro, Esq.
Chairman

ALCOHOLIC BEVERAGES CONTROL COMMISSION

ANNUAL REPORT

The Alcoholic Beverages Control Commission (“ABCC” or “Commission”), as authorized by M.G.L. c. 10, §71, has supervisory and investigatory responsibility over the conduct and condition of traffic in alcoholic beverages, including the manufacturing, importing, exporting, storing, transporting and selling of said alcoholic beverages as defined in M.G.L. c. 138, §1.

The ABCC strives to 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 accordance with the provisions of M.G.L. c. 10, §71as 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, 2014. 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 2013.

In fiscal year 2014, the Commission generated approximately \$4.227 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 \$13.9 million dollars in back tax payments and penalties. These results were achieved with an annual budget of \$2,312,772, twenty-five employees, and the fifth lowest ratio of enforcement agents to licensees in the country.

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	\$56,564
	§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	\$1,000,850
	§18, wine and malt beverages	
	§18, sacramental wines	
Retail Alcohol Application Fees	§12, on-premises	\$457,830
	§15, off -premises	
	Additional Package Store	\$115,000
Agents, Brokers or Solicitors License	§18A	\$295,500
Railroad License Fees	§13, railroad master	\$6,400
	§13, railroad cars	
	§22, railroad cargo	
Airplane License Fees	§13, airline master	\$23,000
	§13, airline flights	
	§22, airline cargo	
Ship License Fees	§13, ship master	\$52,000
	§13, ship chandler	\$1,000
	§22, ship cargo	
Commercial License Alcohol Fees	§76	\$1,500
Special Permit License Fees	§22A, import household charity wine	\$17,567
	§22A, license inventory	
	§22A Consumer Research	
Storage Permit Fees	§20, bonded	\$60,500
	§20A, public	
	§20, storage	
	§Registration Certificate of Compliance	
Transportation Permit Fees	§22, transportation and delivery	\$217,050
	§22, express company permits	
		\$199,150
Salesman Permit Fees	§19A	\$734,950
Caterer's License Fees	§12C	\$84,150
Certificates of Compliance Fees	§18B	\$623,471
Fine in Lieu of Suspension Fees		\$273,176
Miscellaneous Income		\$7,946
Total Receipts		\$4,227,604

This represents a 1.5% increase from fiscal year 2013.

STATEMENT OF APPROPRIATIONS AND EXPENDITURES

General Appropriation for fiscal year 2014 \$2,312,772

Additional Income to the Commonwealth: As stated previously, in fiscal year 2014, with the Commission's assistance, the Departments of Unemployment Assistance (DUA), Revenue (DOR), Industrial Accidents (DIA), and the Massachusetts Lottery, collected taxes from delinquent licensees in the amount of \$13.9 million dollars from Massachusetts alcoholic beverages licensees.

Alcoholic Beverages Licenses & Permits Issued For Calendar Year 2013:

Type	# Issued	Category
Manufacturers License	1	§19, all alcohol
	2	§19, wine and malt beverages
	15	§19E, distilleries
	44	§19C, breweries
	52	§19B, wineries
	16	§19D, pub brewery
	61	§19F, winery shipment
Wholesalers and Importers License	138	§18, all alcoholic beverages
		§18, wine and malt beverages
		§18, sacramental wines
Retail Alcohol License	8650	§12, on-premises
	2816	§15, off -premises
	23	Additional Package Store
Agents, Brokers or Solicitors License	83	§18A
Railroad License	4	§13, railroad master
	92	§13, railroad cars
	0	§22, railroad cargo
Airplane License	16	§13, airline master
	571	§13, airline flights
	1	§22, airline cargo
Ship License	103	§13, ship master
	2	§13, ship chandler
	0	§22, ship cargo
Commercial License Alcohol	2	§76
Special Permit License	158	§22A, import household
	84	charity wine
	20	§22A, license inventory
	7	§22A Consumer Research
Storage Permit	0	§20, bonded
	22	§20A, public
	18	§20, storage
Transportation Permit	1408	§22, transportation and delivery
	3660	§22, express company permits
Salesman Permit	2050	§19A
Certificates of Compliance	2251	§18B
Caterer's Section 12C License	59	§12C

In calendar year 2013, the Commission issued 22,662 licenses for alcoholic beverages, and processed 29,296 license transactions.

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 monies owed to the Massachusetts Lottery, and industry level franchise cases (“25E”). The Commission also provides the first level of administrative review for licensees aggrieved by a decision of the local licensing authorities. The Commission scheduled 362 and conducted 289 hearings in fiscal year 2014. Below are the hearing categories:

Hearing Type

Violation	196
Informational (license applications)	59
Appeals	25
Tax /Lottery	1
25E	7
Withdrawn	74

Investigation and Enforcement Division

Special Investigators of the Investigation and Enforcement Division are appointed by the Chairman pursuant to M.G.L. c. 10, §72. The 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.

License Application Investigations

In calendar year 2013, the Investigators examined 2,936 license applications for both retail and state 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 2013, the Enforcement Division investigated 464 complaints that were filed with the Commission.

Violations

The Investigation and Enforcement Division conducted enforcement operations in over 200 municipalities throughout the Commonwealth. Investigators observed approximately **689 violations** of the Liquor Control Act, of which over **267 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 2013, the agency conducted Compliance Checks, in **251 municipalities** across the Commonwealth. The Investigators conducted operations in **2,686 licensed establishments**, of which **72 failed (3%)**. This represents an outstanding **success rate of 97%**, and puts Massachusetts well above 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. In 2013 the Enforcement Division conducted these programs with the following results: 733 minors in possession or transporting alcoholic beverages; 262 adults procuring alcohol for minors; 78 individuals in possession of false identification; and 403 cases of beer and 399 bottles of alcohol were confiscated by Investigators. Based on the standard for determining “binge drinking”, this prevented delivery to approximately 5,602 underage 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.

In 2013 the Enforcement Division brought 40 illegal gambling charges against 23 bars and liquor stores. Since 2004 the Enforcement Division has filed approximately 2300 counts of illegal gambling against bars and liquor stores throughout the Commonwealth.

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

The Enforcement Division works in cooperation with municipal and state law enforcement agencies in order to obtain optimal enforcement coverage. Most often these efforts are generated from requests for assistance from municipal police chiefs who have problematic licensees in their communities. Further, when a complaint is received at the ABCC, Investigators reach out to police departments to conduct cooperative enforcement operations when feasible.

In 2013 the Enforcement Division worked in cooperation 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. This joint effort will be continuous, as both agencies are making every effort to conduct this enforcement as often as possible with staffing and budget constraints.

In 2013, the Division conducted enforcement operations at the Comcast Center in Mansfield. At the beginning of the concert season, communication was established regarding upcoming events where Mansfield Police would request ABCC enforcement support. Concert dates were selected based on historical problems at the venue when a particular act is featured. ABCC enforcement includes 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. This enforcement operation resulted in: 129 minors in possession of alcohol; 29 cases of furnishing alcohol to minors; 15 intoxicated or incapacitated assists as well as the seizure of 32 bottles of alcohol and 110

cases of beer, resulting in the prevention of delivery to approximately 1270 underage individuals.

Finally, in 2013, the Division, in cooperation with Foxboro Police, conducted alcohol enforcement operations at the Country Music Festival at Gillette Stadium. The results of this enforcement operation included: 50 minors in possession of alcohol; numerous arrests; 5 medical assists; 5 intoxicated or incapacitated assists as well as the seizure of 6 bottles of alcohol and 12 cases of beer, resulting in the prevention of delivery to approximately 108 underage individuals. The enhanced enforcement of all agencies resulted in a marked improvement over the 2012 event.

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 FY 2014, members of the Commission spoke at the annual Municipal Licensing Board Meeting. The Commission addressed licensing questions and talked about the procurement of the eLicensing tool, Accela, to close to two hundred people representing sixty-three municipalities.

- *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 2013, this training was provided for 1460 Police Officers.

Legislative Changes

During fiscal year 2014, 32 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 or more of three categories: a) excess quota licenses; b) conversion of seasonal licenses to annual licenses; and c) ballot questions to amend specific Local Licensing Boards' authority.

The enacted Bills addressed these categories as follows:

- A. Twenty-seven Bills¹ created excess quota licenses in the twenty-four petitions² through the communities' exercise of their right to "home-rule" as it exists under the Massachusetts Declaration of Rights;
- B. Three Bills³ in three communities⁴ authorized the conversion of a seasonal license to an annual license that would exist above the population-based quota;
- C. Four Bills⁵ in four communities⁶ authorized a ballot question to consider changing the licensing authority of the Local Liquor Licensing Boards in said communities.

¹ 2014 Chapters: 5, 14, 16, 23, 30, 32, 57, 59, 64, 65, 75, 107, 126, 129, and 133; and in 2013, Chapters: 9, 42, 58, 66, 74, 83, 107, 111, 112, 119, 120, and 145.

² Bellingham, Belmont, Beverly, Burlington, Concord, Danvers, Dedham, Fairhaven, Fitchburg, Greenfield, Hadley, Lincoln, Milton, Natick, Needham, Norfolk, Northampton, Orleans, Peabody, Quincy, Templeton, Webster, Wellesley, and Westborough.

³ 2014 Chapters: 37, 65; and in 2013, Chapter: 114.

⁴ Adams, Beverly, and Salem.

Legislative Recommendations

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

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

In order for this agency to obtain national criminal record information, legislation must be enacted which authorizes the agency to obtain this information. At the agency’s request, Senate Bill 159 was filed and is pending before the legislature.

- 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. ABCC 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. In order 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.

Accordingly, the Commission recommends that the following legislation be enacted: §56 of c. 138 of the General Laws, as so appearing, is hereby amended by inserting after the words “under this chapter” the following: Investigators shall have the power to make arrests, consistent with current statutory and common law authority, for any criminal offense committed on premises licensed pursuant to this chapter, or in the performance of their

⁵ 2014 Chapter: 15; and in 2013, Chapters: 82, 128, 187.

⁶ Belmont, Harvard, Lincoln, and Weston.

official duties. Whenever the term “police officer” or “sheriff” shall appear in this chapter, it shall automatically incorporate any investigator of the Commission.

- Criminal Background Prohibitions for License Applicants

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

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

In a growing world with an aging population, it would be helpful for the Commission to have discretion in considering an individual’s criminal offender record information. Accordingly, the Commission recommends that §12, 15, and 26 be amended to mirror M.G.L. c. 23K, the recently enacted ‘casino’ statute, which allows for the Commission to consider the applicant’s rehabilitation and whether such conviction should be an automatic disqualification under this section. In considering the rehabilitation of an applicant, the Commission shall not automatically disqualify an applicant if the applicant affirmatively demonstrates, by clear and convincing evidence, that the applicant has financial responsibility, character, reputation, integrity, and general fitness as such to warrant belief by the Commission that the applicant will act honestly, fairly, soundly and, efficiently as a licensee.

- Ownership of a Restaurant and Liquor Store in the Same Town

M.G.L. c. 138, §17 provides that “...local licensing authorities shall not grant licenses to any person, firm or corporation under more than one section of this chapter.” This precludes local licensing authorities from issuing an on-premises and an off-premises alcoholic beverages license to any person, firm or corporation in the same town. This restriction may be detrimental to small and/or family businesses, particularly in small municipalities, and does not meet the needs of a growing and changing industry.

Accordingly, the Commission recommends that the following legislation be enacted: §17 of c. 138 of the General Laws, as so appearing, is hereby amended by deleting the following: Unless expressly authorized by this chapter, local licensing authorities shall not grant licenses to any person, firm, or corporation under more than one section of this chapter.

- Craft 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 of the following laws: chapter 138; §34, 34A, 34B, and 34C, 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.

Commission Initiatives

eLicensing Project Update

In fiscal year 2012, through the Massachusetts Information Technology Division (ITD) sponsorship and the agency partnership of ABCC and the Division of Public Licensure (DPL), Accela was selected as the best solution to meet the complex needs of the Commonwealth’s licensing agencies. In fiscal year 2013, the procurement team selected Accenture as the eLicensing system integration services vendor, and began contract negotiations. Negotiations were completed in fiscal year 2014, and project implementation began.

Prior to kick-off, the ABCC did a tremendous amount of work planning for the conversion, documenting business process re-engineering, and verifying the existing data integrity. Thereafter, the focus was on configuration meetings and development. The software will be deployed in three releases. The first release is scheduled for FY2015.

Once implemented, eLicensing 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.

In FY2014, the ABCC initiated three parallel projects to bridge any gaps in our current paper-based system: the Data Entry Project, which began in early 2014 and included the hiring of expeditors to enter historical data which is not currently captured in the database; the Electronic Document Management

System (EDMS); and the Scanning and Conversion Project. These projects will ultimately be incorporated into the eLicensing Project and will maximize the eLicensing functionality.

Electronic Document Management System & Scanning and Conversion

A recent estimate showed that the ABCC houses over five million paper documents, some dating back to the 1940's, within its license files. As part of the effort to "go paperless," the Commission set a goal in a 2012 strategic report to request capital funds to scan all paper documents and hold them in an easily searchable, comprehensive electronic document management (EDM) system. A requirement of EDMS was that it would seamlessly integrate with the new eLicensing system, Accela, improving the efficiency of both systems.

Two separate procurement processes were started 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. Both processes are currently in their final stages, and contracts are expected to be awarded within the next few months.

Once implemented, EDMS will allow the newly converted historic and current licensee files to be searched and sorted in any number of ways. Through full integration with Accela, all forms, supporting documentation, and licensee information will be in one place, easily accessible and searchable, on both computers and mobile devices, thus increasing efficiency and transparency for the agency.

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



Kim S. Gainsboro, Esq., Chairman