



**ALCOHOLIC BEVERAGES CONTROL COMMISSION**  
**MOST FREQUENTLY ASKED QUESTIONS**

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## **I. THE LICENSING PROCESS**

### **1. What is a license?**

Black's Law Dictionary defines a "license" as a permit, granted by an appropriate governmental body, generally for a consideration, to a person, firm, or corporation to pursue some occupation or to carry on some business subject to regulation under the police power. Liquor licenses and permits are revocable privileges granted by the authority of the Commonwealth. Any licensee who violates M.G.L. Chapter 138 or any regulation promulgated by the Alcoholic Beverages Control Commission ("ABCC") or the Local Licensing Authority ("LLA") may be stripped of their privilege of holding a license, after a hearing.

### **2. When does an individual need a license?**

State law prohibits sale, storage, transportation, importing, exporting, manufacturing with the intent to sell, keeping for sale and exposing for sale without a license. If any individual conducts such activities without a license they are in violation of Chapter 138 "The Liquor Control Act" and will be prosecuted criminally. (Note: That a specific state law states the DELIVERY OF ALCOHOLIC BEVERAGES in or from any place that is not a private dwelling house is presumed to be a sale.)

### **3. Does the ABCC issue licenses directly to any segments of the alcoholic beverages industry?**

Yes. The ABCC is the sole issuing authority for licenses to manufacturers (distillers, wineries, and breweries), wholesalers and importers, railroads, airlines, ships, ship chandlers and caterers. It is the sole issuing authority of liquor transportation permits for express or trucking companies, ships, railroads, caterers, airlines and liquor retailers. It also issues permits to salespersons employed by wholesalers and importers, brokers, farmer-wineries, farmer distillers and farmer-breweries.

### **4. Who issues restaurant licenses and package store licenses?**

The Local Licensing Authority issues restaurant licenses and package store licenses in the city or town where the business is located, after the completion of a Three-step process. Step one: the Local Licensing Authority grants a restaurant or package store license; Step two: the Alcoholic Beverages Control Commission (ABCC) approves the granting of such a license. Following this approval by the ABCC, Step three: the Local Licensing Authority may issue the license upon payment of the licensing fee.

### **5. How many classifications of retail licenses exist?**

Under the Liquor Control Act (M.G.L. Chapter 138), local licensing authorities may grant three classifications of retail licenses:

1. Licenses under Section 12 (On-Premises), commonly referred to as a "Pouring License" (e.g. restaurants, hotels, clubs, taverns, war veterans clubs)
2. Licenses under Section 14 (Special), commonly referred to as a "One-Day License"; and
3. Licenses under Section 15 (Off-Premises) commonly referred to as a "Package Store License" which can be used in various types of businesses. (e.g. package stores, supermarkets and convenience stores)



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**6. What are the four categories of retail liquor licenses?**

Liquor licenses fall into one of four categories:

1. All Alcoholic
2. Wine Only
3. Malt Only
4. Wine and Malt

In certain cities and towns that choose to accept a specific state law, certain businesses that hold a wine and malt beverages license under Section 12 of M.G.L. Chapter 138 as well as a common victualler's license may be given a permit to sell also cordials and liqueurs. This cordials and liqueurs permit must be granted by the Local Licensing Authority with the approval of the ABCC.

**7. How many different types of pouring licenses are there?**

Six different kinds of pouring licenses exist. They are: Hotel, Restaurant, Tavern, Club, General-On-Premises and War Veterans Club.

**8. Are there any qualifications for being granted a retail liquor license?**

Yes. There are qualifications for a liquor license. These qualifications are set by the law. The type and number of qualifications for a liquor license depend on who the party is that is applying for the liquor license (i.e. whether the party is an individual, a partnership, a limited liability company or a corporation) and what type of liquor license is being sought.

**a. "Pouring" Licenses under Section 12**

Generally, an individual applying for a "pouring license" under Section 12 (e.g. a liquor license for the business of a restaurant, bar, nightclub, hotel, tavern) or a social club, a fraternal club, or a war veterans club must be a citizen of the United States and twenty-one years of age or older. A partnership (where two or more people are doing business together) may hold such a liquor license where each partner is a citizen of the United States and twenty-one years of age or older.

A corporation may hold such a liquor license provided that a majority of the directors are not aliens and that the corporate licensee appoints a license manager who is an individual, twenty-one years of age or older, who is a citizen of the United States and has "vested in him [or her] by properly authorized and executed written delegation as full authority and control of the premises, described in the license of such corporation, and the conduct of all business therein relative to alcoholic beverages as the [corporate] licensee itself could in any way have and exercise if it were a natural person." This license manager must be satisfactory to both the ABCC and LLA with respect to his or her character.

A limited liability company (LLC) may hold such a liquor license. The ABCC applies to LLCs the statutory requirements regarding citizenship and residency for corporations. So, the statutory standards for directors of a corporation are applied to the analogous position within an LLC. The ABCC analogizes the directors of a corporation to managers of a LLC. Therefore, a LLC may hold such



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a liquor license provided that a majority of the directors are not aliens. The ABCC analogizes the stockholders of a corporation to members of a LLC. There are no statutory requirements regarding citizenship and residency for shareholders of a corporation and likewise there are no statutory requirements regarding citizenship and residency for members of a LLC. An applicant who is a LLC must appoint a license manager as specified in M.G.L. Chapter 138, Section 26.

No "pouring" license shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law. There is no time limit after which this disqualification ends.

**b. "Package Store" License under Section 15**

Generally an individual applying for a "package goods store" or "package store" license (i.e. a license for the sale at retail of alcoholic beverages not to be drunk on the premises where sold) must be both a citizen and a resident of the Commonwealth of Massachusetts and twenty-one years of age or older. A partnership (where two or more people are doing business together) may hold such a liquor license where each and every partner is both a citizen and a resident of the Commonwealth of Massachusetts and twenty-one years of age or older.

A corporation may hold such a liquor license provided that the corporation is organized under the laws of the Commonwealth of Massachusetts, that all directors of the corporation are citizens of the United States and that a majority of the directors of the corporation are residents of the Commonwealth of Massachusetts. A corporation who holds such a license must appoint a license manager who is an individual, twenty-one years of age or older, who is a citizen of the United States and has "vested in him [or her] by properly authorized and executed written delegation as full authority and control of the premises, described in the license of such corporation, and the conduct of all business therein relative to alcoholic beverages as the [corporation] licensee itself could in any way have and experience if it were a natural person." This license manager must be satisfactory to both the ABCC and LLA with respect to his or her character.

A LLC may hold such a liquor license provided that the LLC is organized under the laws of the Commonwealth of Massachusetts. The ABCC applies to LLCs the statutory requirements regarding citizenship and residency for corporations. So, the statutory standards for directors of a corporation are applied to the analogous position within a LLC. The ABCC analogizes the directors of a corporation to managers of a LLC. Therefore, a LLC may hold such a liquor license provided that all the managers of the LLC directors are citizens and a majority of the managers are residents of Massachusetts. The ABCC analogizes the stockholders of a corporation to members of a LLC. There are no statutory requirements regarding citizenship and residency for shareholders of a corporation and likewise there are no statutory requirements regarding citizenship and residency for members of a LLC. An applicant who is a LLC must appoint a license manager as specified in M.G.L. Chapter 138, Section 26.

No license shall be issued to any applicant who has been convicted of a felony. Further, "no firm, corporation, association or other combination of persons, directly or indirectly, or through any agent, employee, stockholder, officer or other person or any subsidiary



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whatsoever shall be granted, in the aggregate, more than five<sup>1</sup> such licenses in the commonwealth, or be granted more than one such license in a town or two in a city.”

**c. "Special License" under Section 14**

A "Special License" to pour liquor at an indoor or outdoor activity or enterprise may be issued to the responsible manager of any indoor or outdoor activity or enterprise. Such a license is issued by the LLA in the city or town in which the activity or enterprise will be conducted. This type of license may be issued only to a natural person, although this natural person may be a person acting on behalf of a corporation, partnership, or other entity. No person may be granted such licenses permitting sales on an aggregate of more than 30 days in any calendar year. No special license, with only one very limited exception (i.e. a special license for a dining hall maintained by an incorporated educational institution authorized to grant degrees) shall permit sales on more than 30 days. A special license for a municipal golf course may permit sales on an aggregate of not more than 245 days in any calendar year, in or from any municipally owned building that is operated in conjunction with an 18-hole regulation golf course.

**i. Special License under Section 14 for All Alcoholic Beverages**

Special licenses for the sale of all alcoholic beverages, wine, or malt beverages, or any of these beverages, may be issued by the local licensing authorities only to a person at least twenty-one years of age acting on behalf of a nonprofit organization. No other person may be issued a special license to sell all alcoholic beverages.

**ii. Special License under Section 14 for Wine and/or Malt Beverages, or Both**

Special licenses for the sale of wine, malt beverages, or both, may be issued by the local licensing authorities to any person. This type of special license may be issued to a person at least twenty-one years of age who is conducting an activity or enterprise for profit. **No special license under Section 14 shall be granted to any person while his or her application for an annual and or a seasonal license under Section 12 is pending before the licensing authorities.**

**9. Are license applicants barred from holding a liquor license if they have been convicted of a crime?**

Yes. An on-premises license (which includes the categories of restaurants, hotels, bars, taverns and clubs) may not be issued to a person “who has been convicted of a violation of a federal or state narcotic drug law.”

An off-premises license (package store) may not be issued “to any applicant who has been convicted of a felony.”

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<sup>1</sup> As of January 1, 2016, this maximum number of licenses increases from five to seven, and as of January 1, 2020, the maximum number of licenses increases from seven to nine.



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**10. What is the quota system and on what is it based?**

Massachusetts law places a restriction commonly referred to as a “quota” on the number of on-premises and off-premises licenses a city or town can issue. The quota is based on the municipality's population, and the population of any city or town for the purpose of setting this quota shall be that population enumerated in the most recent federal census.

In calendar year 2010, the most recent federal census was taken. Each city and town was notified by the ABCC what the quota of license was as determined by this most recent census. Questions about this quota and any newly available licenses may be directed to either the ABCC or to the LLA in any city or town.

**11. How far does an establishment selling alcoholic beverages have to be from a church or school?**

No specified distance; however under Section 16C of M.G.L. Chapter 138, premises located within a radius of five hundred feet of a school or church shall not be licensed to sell alcoholic beverages unless the LLA determines in writing and after a hearing that the premises are not detrimental to the educational and spiritual activities of that church or school, unless the premises are those of an innholder or unless the parts of the buildings are located ten or more floors above street level. The five hundred foot distance under this Section 16C is measured in a straight line from the nearest point of the church or school to the nearest point of the premises to be licensed.

**12. How long does a licensee have to appeal to the Alcoholic Beverage Control Commission (ABCC) a decision made by the local licensing authority?**

A licensee has five days from receipt of the written decision to appeal to the ABCC a decision made by the LLA. The ABCC has decided that the five days are business days.

**13. What are the most common reasons for license applications being denied or returned without action?**

The most common reasons for license applications being denied or returned without action are:

1. Incomplete application;
2. Taxes are owed to the State (Department of Revenue (the “DOR”) and/or Division of Unemployment Assistance (the “DUA”));
3. The investigator was unable to complete the report after numerous attempts to get information from the applicant; and
4. The city/town quota is full.

**14. How long does a licensee have to appeal a decision made by the ABCC?**

Thirty calendar days from receipt of the written decision are granted to an establishment to appeal to Superior Court a decision made by the ABCC.



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**15. Can a charity sell alcoholic beverages by auction as a fundraiser?**

A charity may sell wine only as a fundraiser and only if the charity applies for and receives the proper license from the LLA with the prior approval of the ABCC.

Since 1997, certain eligible charities could obtain a license that would allow them to sell wine at auction for fundraising by the charity that held the license. To obtain such a charity wine auction license (“CWAL”), the charity must be “organized under Chapter 180 of the General Laws and registered with the public charities division of the office of the attorney general.” These charity wine auctions must be held only at the location described on the CWAL, but may be licensed to be held at “premises which are either the principal place of business or headquarters of the applicant and which are legally zoned to allow such sales or which are the premises of a licensee under Section 12 or Section 15 of chapter 138 of the General Laws.” When issued, the law imposes a number of restrictions and controls on the auction, one of which requires all wine sold under a CWAL to be donated to the charity without charge and all proceeds from the sales to be used for the charity’s charitable purposes.

**16. Can a retailer sell alcoholic beverages by auction?**

A “package store” licensed under Section 15 of M. G. L. Chapter 138 may sell wine only by auction only if the package store applies for and receives the proper license from the LLA with the prior approval of the ABCC.

Since 1997, package stores could also obtain a license that would allow them to sell wine at auction. To obtain such a wine auction license, the package store be issued a license under Section 15 of Chapter 138. These wine auctions must be held only at the location described on the wine auction license but may be licensed to be held at “premises which are either the principal place of business or headquarters of the applicant and which are legally zoned to allow such sales or which are the premises of a licensee under Section 12 or Section 15 of M.G.L. Chapter 138.”

The law imposes a number of restrictions and controls on the wine auction license, one of which restricts the duration and number of wine auction licenses that may be issued to any package store. No wine auction license “shall be for a duration of more than ten consecutive calendar days and no holder of any such temporary license shall be granted more than two such temporary licenses in a calendar year.”

**17. Can a charity sell alcoholic beverages other than by auction as a fundraiser?**

**a. Charity Wine Pouring License**

Yes, a charity may sell wine only, other than by auction, as a fundraiser only if the charity applies for and receives the proper license from the LLA with the prior approval of the ABCC. Since 1997, certain eligible charities could obtain a license that would allow them to sell wine for consumption on the premises where it was sold (a so-called “pouring” license, just like the licenses that permit restaurants, hotels, clubs, taverns and nightclubs to sell wine on their premises.)

To obtain such a charity wine pouring license (“CWPL”), the charity must be “organized under Chapter 180 of the General Laws and registered with the public charities division of the office of the attorney general.” A CWPL must be held only at the location described on the CWPL, but may be licensed to be held at “premises which are either the principal place of business or headquarters



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of the applicant and which are legally zoned to allow such sales or which are the premises of a licensee under Section 12 of Chapter 138 of the General Laws.”

When issued, the law imposes a number of restrictions and controls on the CWPL, one of which requires all wine sold under a CWPL to be donated to the charity without charge and all proceeds from the sales to be used for the charity’s charitable purposes. The law also permits wine donated to be “dispensed by the employees or agents of the donors of the wine, without compensation for the dispensing services provided.”

**b. Charity Partner Wine Pouring License**

Yes, a charity may also sell wine only as a fundraiser in partnership with the holder of an existing pouring license under Section 12 of Chapter 138 of the General Laws only if the charity and the existing Section 12 license holder jointly apply for and receive the proper license from the LLA with the prior approval of the ABCC.

To obtain such a charity partner wine pouring license (“CPWPL”), the charity must be “organized under Chapter 180 of the General Laws and registered with the public charities division of the office of the attorney general.” A CPWPL must be held only at the location described on the CPWPL, and must be held at only “the premises which are the premises of the joint applicant which is a licensee under said [Section 12 of said Chapter 138](#). “

When issued, the law imposes a number of restrictions and controls on the CPWPL, one of which requires all wine sold under a CPWPL to be donated to the charity without charge. Another restriction requires that no CPWPL “shall be for a duration of more than ten consecutive calendar days and no holder of any such temporary license shall be granted such temporary licenses permitting such sales on an aggregate of more than 20 days in any calendar year.” The law also permits wine donated to be “dispensed by the employees or agents of the donors of the wine, without compensation for the dispensing services provided.”

In contrast to the CWPL however, not “all proceeds from the sales” must be used for the charity’s charitable purposes; rather, with a CPWPL, only “[a] majority of the proceeds from such sales shall be used for the nonprofit charitable corporation holder's charitable purposes. Thus, the existing Section 12 license holder may also benefit to a limited degree from its partnership with the charity as a fundraiser.

**18. Can a retailer use his/her license to secure a loan?**

Yes, but only under certain conditions. Massachusetts Law states that "any license granted under the provision of this chapter may be pledged for a loan provided approval of such a loan and pledge is given by the local licensing authority and the Commission [ABCC]."



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**19. What are the different kinds of liquor assets/property that can be pledged?**

The law permits three different kinds of liquor assets/property to be pledged. These are:

1. Licenses that authorize the sale of alcoholic beverages;
2. Corporate Stock in a corporation that holds a license to sell alcoholic beverages; and
3. Alcoholic beverages themselves which a licensee is authorized to sell.

**II. OPERATING THE BUSINESS**

**20. Do LLAs set the hours during which restaurants can serve alcoholic beverages on weekdays?**

To a limit. Massachusetts State Law says that restaurants cannot be barred from serving alcohol between 11:00 a.m.-11:00 p.m. LLA's may grant extended opening hours between 8:00 a.m. and 11:00 a.m. and extended closing hours between 11:00 p.m. and 2:00 a.m. In no event can sales be made between 2:00 a.m. and 8:00 a.m.

**21. What are the Sunday hours that a package store can be open?**

A Section 15 (Package Store/Supermarket/Convenience Store) license holder chooses the hours of sale on a Sunday, so as long as the sales do not commence before 12 noon and conclude no later than 11 pm or 11:30 pm on a day before a legal holiday .

**22. What are the Sunday hours that a pouring license can open at?**

A Section 12 on premises "pouring license can open on a Sunday at 12 noon. The exception to this is if the local licensing authority accepts a certain state law, they may authorize a restaurant, hotel, club, or veterans club to open as early as 10:00 am.

**23. If a restaurant occasionally runs out of a popular item on a busy night, can the manager go to a package store and buy a few bottles to temporarily meet his/her customer's demands?**

No. All licensed retail establishments, including holders of Special Licenses (so-called "One Day" Licenses), must purchase their alcoholic beverages from a licensed Massachusetts wholesaler, manufacturer, winery shipment licensee, farmer brewery, farmer distillery or holder of a Special Permit issued by the ABCC.

**24. Can an out-of-state supplier/manufacturer (a Certificate of Compliance holder) sell directly to a retailer?**

No. An out-of-state supplier/manufacturer (a Certificate of Compliance holder) can only sell his or her alcoholic beverages to a licensed Massachusetts wholesaler.



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**25. Can everyone bring their own beer, wine, or other alcoholic beverages into an establishment (so-called “BYOB”)?**

Not if the establishment has a liquor license. If the establishment has a liquor license, then no one can carry onto the premises their own beer, wine or other alcoholic beverages for their own private consumption (so-called “BYOB” or “brown-bagging”). If the establishment does not have a liquor license, then one must check with the city/town in which the establishment is located to learn if there is any local law dealing with bringing one's own beer onto an establishment for personal consumption.

**26. Can "non-alcoholic beer" be served or sold to persons under twenty-one?**

Maybe. The State Liquor Control Act, M.G.L. Chapter 138, regulates "alcoholic beverages" as that term is defined by law. The law defines "alcoholic beverages" to be "any liquid intended for human consumption as a beverage and containing one half of one percent or more of alcohol by volume at sixty degrees Fahrenheit." Thus, if a product is composed or manufactured so that it contains 1/2% or more of alcohol by volume at sixty degrees Fahrenheit, it is an "alcoholic beverage" and subject to the Liquor Control Act. If a product is composed or manufactured so that it contains less than 1/2% of alcohol by volume at sixty degrees Fahrenheit, it is not an "alcoholic beverage" and is not subject to the Liquor Control Act.

A product that is not an "alcoholic beverage" may be subject to regulation by a city or town under its authority under M.G.L. Chapter 140. Therefore, one must also check the local laws of each city or town about "non-alcoholic beer."

**27. Is a person dining alone in a restaurant able to order a pitcher of beer to go along with his/her meal?**

No. If this order was taken and delivered, or, if such a request were honored, it would be a violation of the ABCC's regulation commonly called the "Happy Hour" regulation. This regulation prohibits the sale or delivery of malt beverages or mixed drinks by the pitcher except to two or more persons at any one time. The Happy Hour regulations also prohibit the sale or delivery of more than two drinks to one person.

**28. Is a person dining alone in restaurant able to order a bottle of wine to go along with his/her meal?**

Yes. The exception to “The Happy Hour Regulations” allows one individual to purchase a bottle of wine with a meal. Otherwise, without a meal, a bottle of wine must be served only to two or more people.

**29. How old do you have to be to tend bar?**

At least 18 years of age. Although Chapter 138, Section 34 prohibits the sale or delivery of alcoholic beverages to a person under twenty-one years of age, nothing in Chapter 138, Section 34 shall prohibit any licensee from employing a person 18 years old or older for the direct handling, selling, mixing or serving of alcohol or alcoholic beverages.



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**30. What forms of identification are acceptable to prove that someone is twenty one years of age or older, so that person may be served, delivered, or allowed to possess or purchase alcoholic beverages?**

If a licensee is charged with permitting the service, delivery, or possession of alcoholic beverages by a person under twenty one years of age, under current state law, a licensee has a defense only if the licensee can affirmatively prove that prior to permitting the service, delivery or possession of alcoholic beverages by a person, the licensee requested, was shown, examined and reasonably relied on either:

1. A Massachusetts Driver's License;
2. A Massachusetts Liquor Identification Card;
3. A Massachusetts Identification Card;
4. A 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; and
6. A Military Identification Card.

Reliance by a licensee on any other form of identification to determine proof of age does not give the licensee a defense. As of December 1, 2012, neither the state Liquor Control Act nor the regulations of the ABCC require identification to be checked as a condition to selling or delivering an alcoholic beverage to any person (except in the case of certain deliveries to consumers at their homes or offices). Each licensee is left to decide for itself what policy to establish on checking identification prior accepting orders for, selling and delivering alcoholic beverages. Some licensees adopt a conservative policy, as they may legally do under the Liquor Control Act and the ABCC regulations, and require proof of age from any person who appears to be younger than thirty years of age and accept as proof of age only the six pieces of identification that give a licensee a defense to any criminal conviction, civil liability and/or administrative prosecution.

Therefore, while a licensee may choose to rely upon any form of identification to obtain proof of age, only these specific six forms of identification provide a defense to a charge of service, delivery, or possession of alcoholic beverages by a person under twenty-one years of age.

**31. If a patron is not driving, does it matter how many drinks s/he is served?**

Yes. Massachusetts state law prohibits the service of alcoholic beverages to an intoxicated patron. It is still a violation to serve to an intoxicated person even if person is not driving. In fact, 12-20% of alcohol-related accidents involve pedestrians.

**32. Is spirit tasting allowed in Massachusetts?**

Yes. These spirit tastings can only be held at premises licensed under Section 15 ("package stores") or restaurants, hotels or function halls licensed under Section 12. Each spirit tasting event must be conducted in full compliance with the conditions set by the state Liquor Control Act.



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**33. Do restaurants, hotels, function halls and package stores need to meet certain requirements while conducting a wine tasting, malt beverages and spirit tastings?**

Yes. Restaurants, hotels, and function halls holding wine, malt beverages and spirits tasting must **provide food** with the alcoholic beverages and they must not solicit orders for any off-premises consumption. The manager of the restaurant, hotel, or function hall is responsible for controlling the dispensing of the alcoholic beverages and the size of each serving is limited to the following amounts:

- Malt beverages one (2) ounce serving
- Wine beverages one (1) ounce serving
- Spirits beverages one (1/4) ounce serving

Package stores may not charge for any wine, malt beverages or spirits tasting and they must also limit the above stated serving sizes. All alcoholic beverages tasted must also be available for sale on such premises.

**34. Can Section 12 (on-premises) establishments with wine and malt licenses serve cordials and liqueurs?**

Yes. On January 14, 1994, Chapter 481 of the Acts of 1993 was signed which allows cities and towns, which vote to accept the provisions of the law, to permit common victualler's licensed to sell wine and malt beverages under M.G.L. Chapter 138, Section 12 to also sell liqueurs and cordials, subject to approval of the LLA and the ABCC.

III. "CLUB" LICENSEES

**35. Can "Club Licensees" serve non-members?**

No. Clubs may serve alcoholic beverages only to members of the club. However, subject to regulations made by the LLA's, a guest of a member may be served an alcoholic beverage after s/he has been introduced by the member as a guest. Should the member at any time leave the premises, the bartender can no longer serve the guest and the guest must also vacate the premises.

**36. May Club Licensees restrict, distinguish or discriminate among their membership regarding entering certain areas of the premises?**

No. No club licensee except a club that is distinctly private, may make any distinctions, discrimination, or restriction on account of race, color, religious creed, national origin, gender, sexual orientation, physical or mental disability or ancestry relative to the admission of any person to membership in the club, or to admission to the premises as a guest, or relative to the treatment of any member or guest at the club premises.

**37. What determines whether a club is distinctly private?**

The decision whether a club is distinctly private is based on, but not limited to, the following criteria:

- 1) The extent to which the club facilities, alcoholic beverages licenses or both are used for commercial purposes;



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- 2) Club membership exceeding 200 persons;
- 3) The availability of regular meal and beverage services on the premises;
- 4) The degree to which the club receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of non-members for the trade or business or professional interests;
- 5) The frequency with which the premises, or part of it, are used for conferences and meetings sponsored by or on behalf of trade or business or professional enterprises;
- 6) The extent to which club facilities, like meal and beverage services, are utilized by non-members;
- 7) The degree to which persons are selected for membership in the club on the basis of trade, business or professional associations or achievement;
- 8) The number of partners, officers, directors or trustees of trade or business or professional enterprises who are members; and
- 9) The club's holding, by lease or otherwise, of any interest in real property owned by a governmental entity or municipality.

**IV. SHIPS AND SHIP CHANDLERS**

**38. Are there regulations on the serving of alcoholic beverages on a ship?**

Yes. This regulation is found in 204 CMR 19.00. These regulations include general restrictions such as:

- 1) All alcoholic beverages shall only be sold or delivered between 8:00 a.m. and 12:30 a.m. on Mondays through Saturdays and between 11:00 a.m. and 12:30 a.m. on Sundays.
- 2) No alcoholic beverages shall be sold or delivered to passengers at dockside or prior to casting off, unless the ABCC gives specific permission in writing.
- 3) On trips of more than two hours, alcoholic beverages shall not be sold or delivered to passengers within thirty minutes before the ship docks.

**39. Are passengers restricted in the number of drinks they may possess at any one time on a licensed ship?**

Yes. No more than two drinks shall be sold, delivered or in possession of any one passenger at any one time.

**40. Can passengers bring their own alcoholic beverages aboard a licensed ship cruising Boston Harbor?**

No. Passengers are prohibited from bringing on board ship their own alcoholic beverages for their own consumption. Passengers may only consume alcoholic beverages aboard a ship that are sold by the ship licensee.



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**41. May a captain terminate service of alcoholic beverages aboard ship whenever he chooses?**

Yes. None of the ABCC's regulations 204 CMR 19.00-19.15 limit in any way the power and authority of the Captain of a ship under the Law of the Sea. Therefore, he or she may at any time order the termination of service of alcoholic beverages aboard ship.

**42. May a licensed ship owner ask a beer supplier to sponsor a cruise?**

No. ABCC Regulations state that no manufacturer, importer, wholesaler, certificate of compliance holder or other Massachusetts licensee shall directly or indirectly sponsor, promote or advertise or use its name or the trade or brand name of any alcoholic beverage in connection with any cruise or event, public or private, aboard a ship. No ship shall allow or accept funds for such sponsorship, promotion or advertisement.

**43. Can a licensed ship chandler buy liquor from a package store to fulfill an emergency call from a captain out at sea who is running short of liquor and needs an immediate delivery?**

No. A licensed ship chandler may not purchase alcohol from a package store to fulfill a ship's need. Ship chandlers may only purchase alcohol from an "authorized source" i.e. a Massachusetts wholesaler (licensed under Section 18 of M. G. L. Chapter 138), a Massachusetts Farmer-Winery (licensed under Section 19B), or a Massachusetts Farmer-Brewery (licensed under Section 19C).

V. FINES, THE BOTTLE BILL AND OTHER MISCELLANEOUS INFORMATION

**44. Is the ABCC required to accept from a licensee a fine as an offer in compromise in lieu of suspension?**

No. The ABCC may accept an offer in compromise in lieu of suspension from a licensee or certificate of compliance holder (an out-of-state supplier) if they petition the ABCC to accept this offer in compromise within twenty (20) calendar days following notice of a suspension of the license. The fine to be paid is calculated according to the formula set out in Section 23 of Chapter 138: Fifty percent of the per diem gross profit multiplied by the number of license suspension days, with the gross profit to be determined as gross receipts on alcoholic beverage sales less the invoiced cost of goods sold per diem. In no event is the fine less than \$40.00 per day. It is worth noting that LLA's are not authorized to accept "fines in lieu."

**45. Is it legal for me to let my niece and nephew drink beer at my house? I think it's safer if they do it when I know where they are.**

No, it is not legal and this choice may very well expose a person to so-called "Social Host Liability" under a state law recently enacted.

In August, 2000, the Legislature enacted, and the Governor approved, an amendment to state law. This amendment specifically provided that "whoever furnishes any such [alcoholic] beverage or alcohol for a person under twenty-one years of age shall be punished by a fine of not more



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than \$2,000 or by imprisonment for not more than one year or both. For the purpose of this section the word "furnish" shall mean to knowingly or intentionally supply, give, or provide to or allow a person under twenty-one years of age except for the children and grandchildren of the person being charged to possess alcoholic beverages on premises or property owned or controlled by the person charged." As of September 1, 2001, the extent of the impact of the new state law has yet to be determined by the courts of Massachusetts. But a decision to let your niece or nephew to drink appears to violate this law and expose a person to criminal prosecution and civil liability.

**46. Can a retail package store use a coupon to advertise or give a discount in the price of alcoholic beverages?**

No. State law requires a package store to establish and post a list of prices for all products sold. All sales must be made at those posted prices. There can only be one set of prices for one licensed premises. Therefore, a package store cannot sell alcoholic beverages at different prices to different groups of people, namely those who have the coupon and those that do not.

**47. Can a bar, restaurant, or hotel offer a free drink?**

No. A bar, restaurant or hotel cannot offer any free drinks. However, a bar, restaurant, or hotel can include a drink as part of a meal package under certain circumstances. The ABCC's "Happy Hour" Regulation should be consulted for further information.

**48. Can a bar, restaurant, or hotel increase the price for alcoholic beverages during the evenings when they have entertainment?**

No. Alcoholic beverages must be sold to all persons at the same price for a calendar week. An on-premises licensee cannot change its prices -- up or down -- during the week.

**49. Are containers for wine coolers redeemable under the Bottle Bill?**

No. Although several attempts have been made to include containers for wine coolers under the provisions of the Bottle Bill, to date they are not required to be redeemed.

**50. May a retailer require that bottles be washed before redeeming the five cent deposit?**

No. A retailer may refuse to accept beverage containers that are not in acceptable condition. The "acceptable condition" depends on the type of container.

- 1) A refillable glass container must be able to hold liquid, be able to be resealed, be in its original shape, not be chipped and not be cracked to be acceptable.
- 2) A non-refillable glass beverage may be chipped, but may not have the bottom broken out or broken off to be acceptable.
- 3) Metal cans and plastic bottles must be easily identifiable and reasonably intact to be acceptable.



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A retailer may refuse to accept a container which is not in a reasonably clean condition. All containers must be free of foreign materials, such as paper, sticks, and cigarettes. A retailer may refuse to accept a container that is not empty. State law provides a container is "not empty" if the container "holds a liquid in any significant amount." A retailer may refuse to accept a metal can which is substantially altered from its original shape.

**51. May a retailer limit the amount of returnable containers he will accept from a person?**

Yes. A retailer may refuse to accept more than 120 containers in one 24 hour period from any one person; however, he may choose to accept more.

**52. Can a licensee change a manager, stockholder, officer, director, the holder of an interest in the license or take on a new partner or investor at any time?**

No. Any changes of a licensed manager, stockholder, officer, director, change in beneficial interest or the addition of a new partner or investor is not legal unless and until the new individual(s) is (are) approved by both the local licensing authority and the ABCC.

**53. When can I start selling and allowing my customers to drink alcoholic beverages on my newly added patio area?**

No sales or consumption of any alcoholic beverages can be allowed by the license holder in the patio area unless and until the changes to their location are approved by both the LLA, the ABCC and a new amended license (with the approved changes added to the description of premises) is issued.

**54. Can a one day license or BYOB be issued or allowed at the premises covered by seasonal license during the period that the seasonal license is dormant?**

The LLA sets the actual term that a seasonal licensee can operate. The LLA can permit a seasonal licensee to operate as late as January 15<sup>th</sup> (e.g. The seasonal licensee opens on April 1, 2012 and can operate as late as January 15, 2013). However, no one day license or BYOB can be issued or allowed on that seasonal license premises during the dormant period of January 16<sup>th</sup> - March 31<sup>st</sup>.

**55. If my approved licensed manager resigns or quits is my liquor license automatically suspended?**

No. While a license holder must always have an approved license manager in control of the alcohol license operations, the absence of the approved license manager does not automatically suspend or otherwise affect the license status in any way. The licensee is required to petition the LLA and the ABCC for a change of manager immediately.