

**ALCOHOLIC BEVERAGES CONTROL COMMISSION  
FREQUENTLY ASKED QUESTIONS  
FALL 2022 UPDATE**

The Alcoholic Beverages Control Commission ("ABCC") is charged with the supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages. The ABCC issues the following Frequently Asked Questions to provide guidance to Local Licensing Authorities ("LLAs"), members of the industry, and the public at large, on some of the questions most often asked of the ABCC. Nothing in this document should be considered legal advice but instead should be used as a tool to assist individuals in navigating the sometimes-complicated alcohol laws of the Commonwealth of Massachusetts.

This document is divided into two sections: (1) questions related to the retail alcoholic beverages industry; and (2) questions related to the state alcoholic beverages industry.

Please note that anywhere a statute is cited by section number ("§"), it is referring to the Massachusetts Liquor Control Act, M.G.L. c. 138, unless otherwise noted.

## **RETAIL ALCOHOL LICENSES**

### **THE LICENSING PROCESS**

#### **1. When does an individual need an alcohol license?**

Section 2 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 and may be charged criminally.

Please be aware that under § 41, the delivery of alcoholic beverages in or from any place that is not a private dwelling house is presumed to be a sale.

#### **2. Who issues restaurant/bar licenses and package store licenses?**

The LLA issues retail licenses for both on-premises consumption under § 12 (restaurants, hotels, clubs, taverns, war veterans' clubs, continuing care retirement communities, and general-on-premises), §§ 19B(n), 19C(n) & 19E(o) (farmer-series pouring permits), and off-premises consumption under § 15 (package stores, including grocery stores and convenience stores).

The licensing process for on-premises licenses and § 15 package store licenses involves three steps:

- 1) the LLA grants a retail license;
- 2) the ABCC approves the granting of such a license;
- 3) the LLA issues the license upon payment of the licensing fee.

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

LLAs grant three classifications of retail licenses:

- 1) Licenses under §§ 12, 19B(n), 19C(n) & 19E(o) (On-Premises), commonly referred to as a "Pouring License" (e.g. restaurants, hotels, clubs, taverns, war veterans' clubs, continuing care retirement communities, general-on-premises, and farmer-series pouring permits);
- 2) Licenses under § 14 (Special), commonly referred to as "One-Day Licenses"; and
- 3) Licenses under § 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).

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

Liquor licenses fall into one of four categories:

- 1) All alcoholic beverages (wine, malt beverages, and distilled spirits)
- 2) Wine only
- 3) Malt beverages only
- 4) Wine and malt beverages

In certain cities and towns that vote to accept a specific state law, businesses that hold a wine and malt beverages license under § 12 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 LLA with the approval of the ABCC.

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

Eight different kinds of pouring licenses exist. They are: Hotel, Restaurant, Tavern, Club, General-On-Premises, Continuing Care Retirement Community, War Veterans' Club, and Farmer-Series establishments.

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

Yes. These qualifications are set by the legislature. 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 § 12 must be a citizen of the United States and 21 years of age or older. A partnership may hold such a liquor license where each partner is a citizen of the United States and 21 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, 21 years of age or older, who is a citizen of the United States and has, under § 26, "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 approved by both the LLA and ABCC with respect to his or her character.

A limited liability company (LLC) may also 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 a liquor license provided that a majority of the LLC managers 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 § 26.

No § 12 "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 21 years of age or older. A partnership may hold such a liquor license where each and every partner is both a citizen and a resident of the Commonwealth of Massachusetts and 21 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, 21 years of age