

## **Frequently Asked Questions**

### **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 Commission or the local licensing authority may be stripped of their privilege of holding a license, after a hearing.

### **2. 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 and ship chandlers. 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, and farmer-breweries.

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

The local licensing authority in the city or town where the business is located after the completion of a 3-step process. Step one: the local licensing authority grants a restaurant or pack 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.

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

Under the Liquor Control Act (General Laws, 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";
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".

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

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

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

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

## **7. 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. where the party is an individual, a partnership, 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 a restaurant, bar, nightclub, hotel, or tavern) must be a citizen of the United States and 21 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 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 "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 local and state licensing authorities with respect to his or her character.

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 limit after which this disqualification ends.

- B. "Package Store" License Under Section 15 (This section intentionally omitted).
- C. "Special License under Section 14

A "Special License" to pour liquor at an indoor or outdoor activity or enterprises may be issued to the responsible manager of any indoor or outdoor activity or enterprise. Such license is issued by the local licensing authority 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.

1. Special Licenses 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 authority only to a person acting on behalf of a non-profit organization. No other person may be issued a license to sell all alcoholic beverages.

2. Special License 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 authority to any person. This type of special license may be issued to a person 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 license under Section 12 is pending before the licensing authorities.

**8. 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".

**9. 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-premise licenses a city or town can issue. The quota is based on the municipality's population as certified by the Secretary of State. As of 1992, 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.

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

No specific 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 local licensing authority 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 inn holder or unless the parts of the buildings are located ten or more floors above street level. The 500 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.

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

A licensee has five (5) days from receipt of the written decision to appeal to the ABCC a decision made by the local licensing authority.

**12. 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. Taxes are owed to the State.
2. The investigator was unable to complete the report after numerous attempts to get information from the applicant.
3. The City/Town Quota is full.

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

Thirty (30) days from the receipt of the written decision are granted to an establishment to appeal to Superior Court a decision made by the ABCC.