

THE CITY OF FITCHBURG ALCOHOL LICENSEE SEMINAR

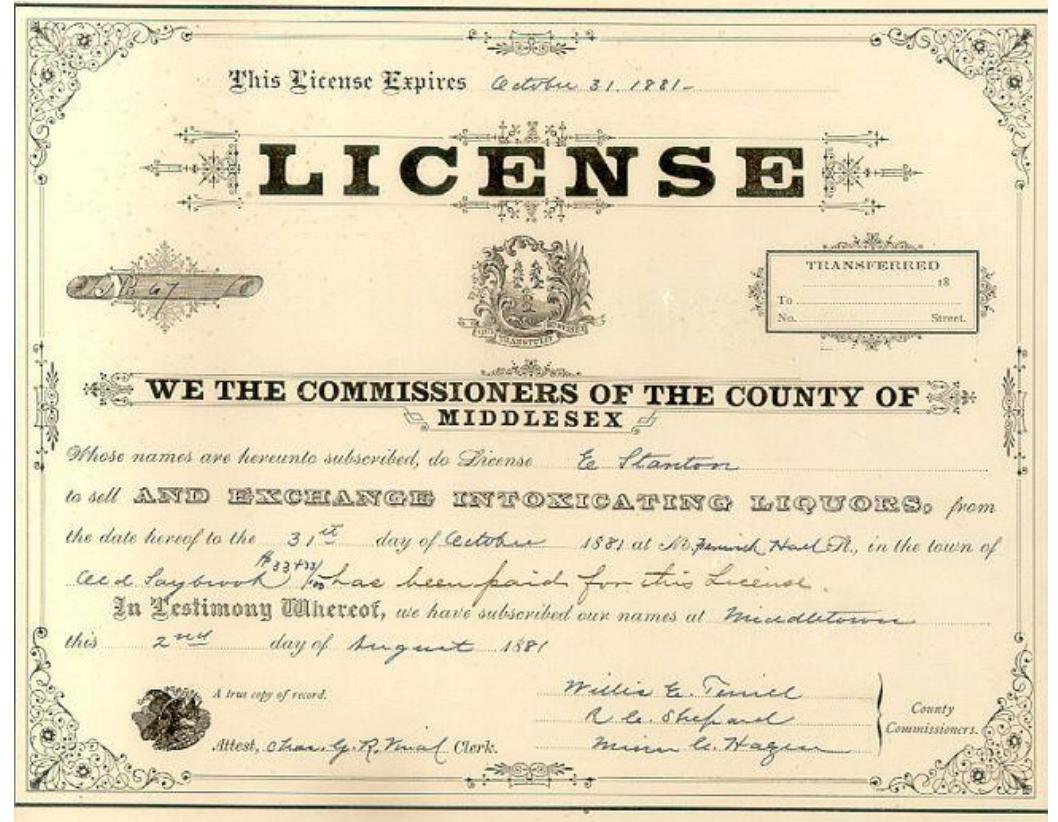
WELCOME!

TODAY'S SPEAKERS:

- **Commissioner Jean M. Lorizio, Esq., Chair of the Alcoholic Beverages Control Commission (ABCC)**
- **Ralph Sacramone, Executive Director of the Alcoholic Beverages Control Commission (ABCC)**
- **Kyle E. Gill, Esq., General Counsel, Alcoholic Beverages Control Commission (ABCC)**
- **Ryan Melville, Deputy Executive Director of the Alcoholic Beverages Control Commission (ABCC)**
- **Thomas Carroll Community Outreach & Resource Planning Specialist US Department of Labor**
- **Deputy Director Alan Green Department of Industrial Accidents**

Changes to an existing license:

- Change of Ownership
- Transfer of Stock, Issuance of stock/new stockholders
- Change of Name and/or change of d/b/a
- Change of Officers/Directors/Trustees or change in the corporate structure (such as changing from INC to LLC)
- Renovations or alterations to the premises (Abutter notification requirement.)
- Change of Manager –
- Change of Hours (including Sundays)
- Change of location



2024 Updates on outdoor patios and seating

Source: 03/30/23 ABCC Advisory

Second Further Expansion of Patio Service and Takeaway/Delivery of Alcohol Authorized on 3/29/23

- **Patios/Outdoor Expansions:** licensees that have been approved for expanded patio/outdoor service may continue their outdoor operations until April 1, 2024. Adding patios will require an alteration of premises application.
- Licensees that want to continue patio/outdoor service after April 1, 2024 should apply for an alteration of premises with the Board. Unless an alteration is approved the license automatically reverts to the status prior to the approval of expanded outdoor service as of April 1, 2024.
- Alcohol cannot be served on any patio until approved by the LLA and ABCC and an amended license is issued with the new description of the premises.
- Licensee is responsible for supervising and maintaining access and control of the permitted outdoor patios, seating and exterior of the premises.



ABCC NAVIGATION OF WEBSITE

<https://www.mass.gov/orgs/alcoholic-beverages-control-commission>

Applications

Commission Advisories

Commission Decisions

Frequently Asked Questions and Guidelines in Multiple Languages

Purchasing alcohol from authorized sources:

**Restaurants, clubs and
package stores cannot
purchase any alcohol
from a package store,
big box store and/or
out-of-state entities.
Alcohol must be
purchased from a
licensed wholesaler.**

MGL c. 138 §23



Section 12 and Section 15 Licensees with Same Owner Entity

- Alcohol cannot be transferred between entities.
- Each entity is its own business.
- If this action occurs, the Licensee is acting as a wholesaler and this is a violation.



Delivery of alcohol:

- A Section 15 licensee is allowed to deliver to Massachusetts consumers if the entity holds a Section 22 transportation permit.
- Takeaway/delivery of alcohol: (Alcohol to go) Section 12 establishments licensed for on-premises consumption of alcohol may continue takeaway and delivery sales of alcohol until April 1, 2024.
- All alcohol sold for takeaway/delivery must be sold with food and at the same price as alcohol for on-premises consumption.
- Sale and delivery of the alcohol extends to the front door of the home to which alcohol is being delivered.
- Licensee's Delivery Agent must verify the legal age and check ID of recipient at the time of delivery.



COMPLIANCE CHECKS

- Compliance Checks are a training tool required by law.
- Municipality and ABCC must conduct compliance checks.
- Compliance checks are intended to help the licensee comply with the law and local regulations.





ALCOHOL SALES AND SERVICE REQUIRES THE LICENSEE TO CHECK IDs

Identification of Patrons. Licensees shall ensure that the identification of persons purchasing alcoholic beverages occurs at the point of sale or service.

KNOW THE SIX ACCEPTABLE FORMS OF IDENTIFICATION

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



OVERSERVING COMES BACK TO THE LICENSEE

“last place of drink”

MGL c. 90 § 24J

Prior to sentencing for conviction of
DUI or guilty plea for DUI,
the guilty party must identify the
name and location of the last place at
which the individual was served.



Hours of Operation “Last Call”

- Local Licensing authorities often have regulations specific to “Last Call.”
- Statewide: Licensees cannot utilize their alcoholic beverages license before or after their approved hours.



ABCC, Police, Fire, City Inspectors are authorized to inspect the licensed premises at any time.

Police Department has authority to investigate potential violations of the law at a licensed premises on behalf of the Board, and conduct enforcement.

The Licensee should ensure that staff is aware and prepared to assist in allowing inspection of the licensed premises and responsive to questions during inspection.



OTHER ISSUES

- Overcrowding
- Overserving
- Not licensed for certain entertainment activities but promoting and allowing those anyway at the premises
- Not amending alcohol licenses to serve in another area or floor of the establishment
- Not knowing or training staff on the right of police to enter a licensed establishment and perform inspections of the licensed establishment
- Lack of familiarity with what on-scene officers will be requesting and what Police follow up entails in the event of an issue
- Cover Charges-cannot be charged in advance of gaining entrance to the license premises, requires a printed receipt presented to each customer charged, licensee must keep records of such receipts for at least two (2) years, a sign must be conspicuously posted at every entrance to any dining room or rooms to which charges are being collected stating the amount of the charge, and no person under thirteen (13) shall pay a cover charge
- Entertainment Issues-no licensee shall provide or allow entertainment unless an entertainment license has been obtained
- Annual Renewal Deadlines – all annual licensees must renew alcohol license by November 30th annually, authorized representative must sign application, renewal fee must accompany application, application must be the same type as the expiring license and cover the same licensed premises, section 12 licensees must provide proof of liquor liability insurance and Fire Safety Inspection Certificates– failure to sign and file application and pay application fee by November 30th results in requirement for licensee to file an application for new/original license, abutter notice, DOR and DUA releases to accompany application for new license

Know the Requirements for Club Licenses

MGL c. 138, §12



- Alcoholic beverages may only be served to members of the club who are 21/older.
- If the member leaves the club, the member's guest must leave the premises and can no longer be served alcohol.
- Clubs are required to file annual reports with the Board and the Commonwealth of Massachusetts.

Working Together

Connect with the Police Department for Assistance

- Contact Fitchburg Police Department and seek other resources for assistance
- **TEAMWORK AND COMMUNICATION ARE THE KEYS TO A WELL-RUN ESTABLISHMENT**
- Licensee should use and seek available resources
- Licensee should connect with FPD to assist with and prevent issues
- Fitchburg wants Licensees to contact ABCC, DIA, FPD, keep communications open to assist Licensees run an establishment in compliance with Fitchburg Licensing rules and ordinances and Massachusetts statutes and regulations



Deputy Director Alan Green Department of Industrial Accidents

<https://www.mass.gov/orgs/department-of-industrial-accidents>

Workers' Compensation Insurance Requirements

-all employers are required to carry workers' compensation insurance for their employees and themselves

-stop work order can be issued to employers who don't have workers' compensation insurance, and fines are \$100/day beginning on the date the SWO is issued

Commonwealth of Massachusetts
Department of Industrial Accidents
Lafayette City Center
2 Avenue de Lafayette
Boston, MA 02111-1750

EMPLOYER'S GUIDE TO THE MASSACHUSETTS WORKERS' COMPENSATION SYSTEM

Esta guia está disponible en español en nuestro sitio electrónico: www.mass.gov/dia

Este Guia está disponível em português no nosso site: www.mass.gov/dia

Es manual sta skrifu na Kriolu di Kabu. Verdi prantu pa bu uzu na website (pagina na internet): www.mass.gov/dia

本指南的中文版位於我們的網址：
www.mass.gov/dia

Cô Hướng Dẫn này bằng tiếng
Việt Nam tại mang lưới của chúng tôi:
www.mass.gov/dia

W ap jwenn gid sa a ekri nan lang kreyòl
sou sit entènèl nou an: www.mass.gov/dia

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www.mass.gov/dia

يتوفر هذا النيل باللغة العربية على موقعنا التالي على الويب:
www.mass.gov/dia



DIA online Guides and Resources:

Employer's Guide to Workers Compensation – in multiple languages

<https://www.mass.gov/doc/employers-guide-to-workers-compensation-english-o/download>



Restaurant Workers

An Overview of the Fair Labor Standards Act (FLSA) with focus on the MA restaurant industry.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-4-US-WAGE

FLSA in the restaurant industry

- **Minimum Wage**
 - Hours Worked
 - Rest / Meal Periods (20 minute rule)
 - Illegal Deductions for minimum employees (uniform / walk outs / breakage)
- **Overtime** Time and $\frac{1}{2}$ the employees regular rate of pay for all hours worked over 40 in a work week (total wages for week divided by total hours) i.e Dual Jobs
Overtime wages for tipped employees
All hours counted and each work week stands alone
- **Child Labor** 14 and 15 year olds (limit on hours/time worked and hazardous occupation restrictions)
 - 16 and 17 year olds (hazardous occupation restrictions)
- **Record Keeping**

Employer must maintain the following for 3 years:

 - name and contact information for all employees (including workers from third party agencies such as a temp agencies. Joint employers
 - All information on any independent contractors used by the employer.
 - Accurate time records, payroll and general ledgers

Common violations in the restaurant industry:

Federal **minimum wage** for tipped employee is \$2.13 per hour plus tips; hourly minimum wage is \$7.25.

MA state minimum wage for tipped employees is \$6.75 per hour plus tips; hourly minimum wage is \$15

The employer must comply with both federal and state regulations thus:
minimum wage for tipped employees is \$6.75 per hour plus tips; hourly minimum wage is \$15.00. Tips are the property of the employee. Tip Pool.

MA state law does not require **overtime pay** in the hospitality industry.

Federal law **requires** overtime be paid at time and $\frac{1}{2}$ the employees' regular rate of pay for all hours worked over 40 in a workweek.

The employer must comply with both state and federal regulations, thus:
overtime must be paid at time and $\frac{1}{2}$ the employees' regular rate of pay for all hours worked over 40 in a workweek.

Common violations in the restaurant industry continued:

- If a tipped employee works **overtime**, the tipped employee must be paid \$14.25 per hour plus tips for all hours worked over 40 in a work week. (\$6.75 PLUS half time of \$15 or \$7.50 which = **\$14.25**)

A common error – employer pays time and $\frac{1}{2}$ of \$6.75 which is incorrect.

Not all salaried employees are exempt from overtime pay. Kitchen employees such as prep cooks, line cooks, dishwashers are **not** exempt from overtime pay and must be paid time and $\frac{1}{2}$ their regular rate of pay for all hours worked over 40 in a work week. Example...if a line cook receives a weekly salary of \$1000 for all hours worked, and works 50 hours in a workweek, the regular rate of pay would be \$1000 divided by 50 hours or \$20 per hour. The employee needs to be paid half time of \$20 or \$10 for 10 hours of overtime or an additional \$100 for the week. Only managers of 2 or more full time employees, and chefs are exempt from overtime pay if they receive a guarantee of \$684 per week, every week.

Labor laws cover all workers, regardless of immigration status

Child Labor

Hours Restrictions in **non-agricultural** jobs...

- Apply to 14- and 15-year-olds only
- Not during school hours
- No more than 3 hours on a school day or 8 hours on a non-school day
- No more than 18 hours during school weeks or 40 hours during non-school weeks
- Not before 7 a.m. and not after 7 p.m. except from June 1 to Labor Day when the time is extended until 9 p.m.

Rest and Meal Periods



- **Short rest breaks** (20 min or less) are compensable.
- **Bona fide meal periods** (typically 30 minutes or more) need not be paid as hours worked.
- Worker must be completely relieved of duty for meal period not to be paid time.

Misclassification

Misclassified employees are often denied:

- Minimum wage
- Overtime pay
- Health insurance
- Workers' compensation
- Unemployment insurance



EMPLOYEE	OR	INDEPENDENT CONTRACTOR
Working for someone else's business		Running their own business
Paid hourly, salary, or by piece rate		Paid upon completion of project
Uses employer's materials, tools and equipment		Provides own materials, tools and equipment
Typically works for one employer		Works with multiple clients
Continuing relationship with the employer		Temporary relationship until project completed
Employer decides when and how the work will be performed		Decides when and how they will perform the work
Employer assigns the work to be performed		Decides what work they will do

FIND ABCC information and resources and FAQs in Multiple Languages **ONLINE**

Website Resources: ABCC:

<https://www.mass.gov/orgs/alcoholic-beverages-control-commission>

Frequently Asked Questions

<https://www.mass.gov/doc/faqsenglish/download>



- [Alcoholic Beverages Control Commission | Mass.gov](https://www.mass.gov/orgs/alcoholic-beverages-control-commission)
- [Frequently Asked Questions \(Multilingual\) | Mass.gov](https://www.mass.gov/doc/faqsenglish/download)

RESOURCES

ABCC Frequently Asked Questions Fall 2022 Update:

https://www.mass.gov/doc/faqs-english/download?_ga=2.160262840.484087346.1704376859-1564321691.1675104142&_gl=1*gpx8zn*ga*MTU2NDMyMTY5MS4xNjc1MTAoMTQy*ga_MCLPEGW7WM*MTcwNDQwMjEwOC4xMy4wLjE3MDQoMDIxMTIuMC4wLjA.

DIA Employer's Guide to Workers' Compensation

<https://www.mass.gov/info-details/employers-guide-to-workers-compensation>