



The Research Bureau

A Top Shelf Liquor License Policy

The Impact of the (Lack of a) Section 12 Quota on Bars and Restaurants

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Research in the Public Interest

Worcester Regional Research Bureau, Inc.

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Introduction

Many of Massachusetts' thriving commercial corridors were built on rivers of liquor. Bars and restaurants can turn a neighborhood into a destination for any combination of nightlife, fine dining, culture or tourism. Establishments with liquor licenses are important economic development drivers, and many cities and towns try to convince proprietors of such businesses to set up shop in their communities.

Serving liquor is a complicated industry, though. Heightened public health and safety implications combined with the regulations that govern any businesses that serves food or beverages mean Massachusetts' liquor license laws are complex and comprehensive. They cover everything from who is eligible to hold a license, to what different types of liquor licenses allow one to do, to—perhaps most notably—how many liquor licenses a city or town is allowed to maintain.

Worcester is one of 25 Massachusetts cities and towns that do not cap the number of pouring licenses based on population. While 318 communities do enforce a cap, usually in the name of public safety or public health, this often creates a secondary market where potential business owners are required to purchase existing liquor licenses rather than applying for a new one from the city or town. This can make starting a business in one of these towns more expensive and difficult than in municipalities that can grant licenses directly to businesses. Worcester and other communities without a cap have calculated that the lack of such restrictions will create an incentive for bars, restaurants and other related businesses to open in their community. Data from the Massachusetts Alcohol Beverages Control Commission (ABCC) shows that these “no quota” communities often do have more liquor licensed establishments than areas with a cap.

This report provides an overview of liquor license patterns across the state and an in-depth look at Worcester's liquor licenses. It aims to show how being a no-quota community has affected bars, restaurants, culture and entertainment options, and ultimately, the local economy.

Terminology

Classifications of retail liquor licenses

On-premises or “pouring”—these licenses are granted to establishments where patrons consume the alcohol onsite, like bars and restaurants. This report focuses on these licenses.

Off-premises—these licenses are granted to establishments where customers do not consume alcohol onsite, like package stores.

Special—these licenses are usually granted temporarily for events, and are sometimes called “one-day licenses.”

Categories of retail liquor licenses

All Alcoholic Beverages—these licenses allow the sale of distilled spirits, wine and malt beverages like beer.

Wine and Malt Beverages—these licenses do not allow the sale of spirits. They can also be separated (“wine only” or “malt beverages only”).

Types of pouring licenses

Restaurant—for establishments that also serve food.

Club—for private organizations like country clubs. This license restricts service only to members of the club and their guests.

General On-premises—for establishments that do not serve food, like some bars.

Hotel—for businesses that provide lodging to guests.

Other—less-common licenses include continuing care retirement community and veterans' club.

Licensing authorities

Alcoholic Beverages Control Commission (ABCC)—a state agency that oversees all aspects of the alcoholic beverages business, both directly and by working with municipalities.

Local Licensing Authority—the organization that grants and oversees licenses in a municipality. In Worcester this role is filled by the three-member Worcester License Commission.



Laws and Regulations

Because pouring licenses are regulated under section 12 of chapter 138 of the Massachusetts General Laws, **the formula that regulates how many pouring licenses a city or town is allowed to have is sometimes called the “section 12 quota.”** In equation form, the quota for any city or town can be expressed as ...

$$\frac{\text{Population}}{1,000} + \frac{\text{Population} - 25,000}{10,000}$$

... where fractions are rounded up and the minimum result is 14 (and the second half of the equation is changed to zero if negative). This effectively gives communities a minimum cap of around one liquor license per thousand residents.

In addition to the normal quota, **cities and towns have a separate quota for licenses authorizing the sale of wine only, malt beverages only, or wine and malt beverages only.** In equation form, the wine and malt beverages license quota can be expressed as ...

$$\frac{\text{Population}}{5,000}$$

... where fractions are rounded up and the minimum result is five. This effectively gives communities a minimum cap of 0.2 restricted licenses per thousand residents.

Boston is governed by different liquor license cap laws that apply to that city specifically, for all types of pouring licenses.

While local licensing authorities may have additional rules and regulations, the ABCC specifies that to be eligible for a pouring license, applicants must be U.S. citizens of legal drinking age. A corporation or LLC can hold a license as long as there is an appointed license manager who meets the eligibility requirements. A conviction for a violation of state or federal

narcotic drugs law disqualifies applicants from holding a license.

Off-premises liquor licenses are governed by different rules and regulations, with different quotas, although these licenses can be administered by the same local licensing authority as on-premises licenses and are also overseen by the ABCC. The ABCC also handles all licenses that do not fall under local authority, such as those for manufacturers and importers.

Population figures for calculating quotas are taken from the decennial U.S. Census, the last of which was in 2010 (the 2020 Census is ongoing).

No-Quota Communities

There are 25 cities and towns in Massachusetts that do not impose a quota on the number of pouring licenses granted (see map 1). The quota for off-premises liquor licenses, or the “package store quota,” is still enforced, as it is unrelated to the pouring license quota.

The 25 cities and towns have an average population of around 31,000 residents. Worcester, with around 185,000 residents, is the largest, and Provincetown, with fewer than 3,000 residents, is the smallest. Of the group, 10 would otherwise be restricted to the minimum 14 regular pouring licenses.

Of the no-quota communities, 21 have more regular licenses granted than the quota formula would otherwise dictate. This is in line with the motivation to do away with the quota—municipalities count on readily available licenses to encourage more alcohol-serving businesses to come to their community.

In 2019, a total of 92 cities and towns exceeded the quota on regular liquor licenses, including 71 that are governed by the quota. This is because if a community finds itself in a situation where it has more licenses than the cap dictates—for example, due to a decline in population but not

the number of bars and restaurants—the “excess” licenses are only lost if the licensed business shuts down without transferring (effectively selling) the license to another business. **This has created a secondary market for liquor licenses in towns that abide by the quota,** often with the encouragement of local government officials, who know that surrendering a license to the state means a permanent reduction in that community’s liquor license capacity.

In total, the 25 communities with no section 12 quota have granted 1,254 all-alcohol liquor licenses, well above the theoretical cap of 869. The average no-quota community has 15 more regular liquor licenses than the quota would normally allow.

Dry Towns

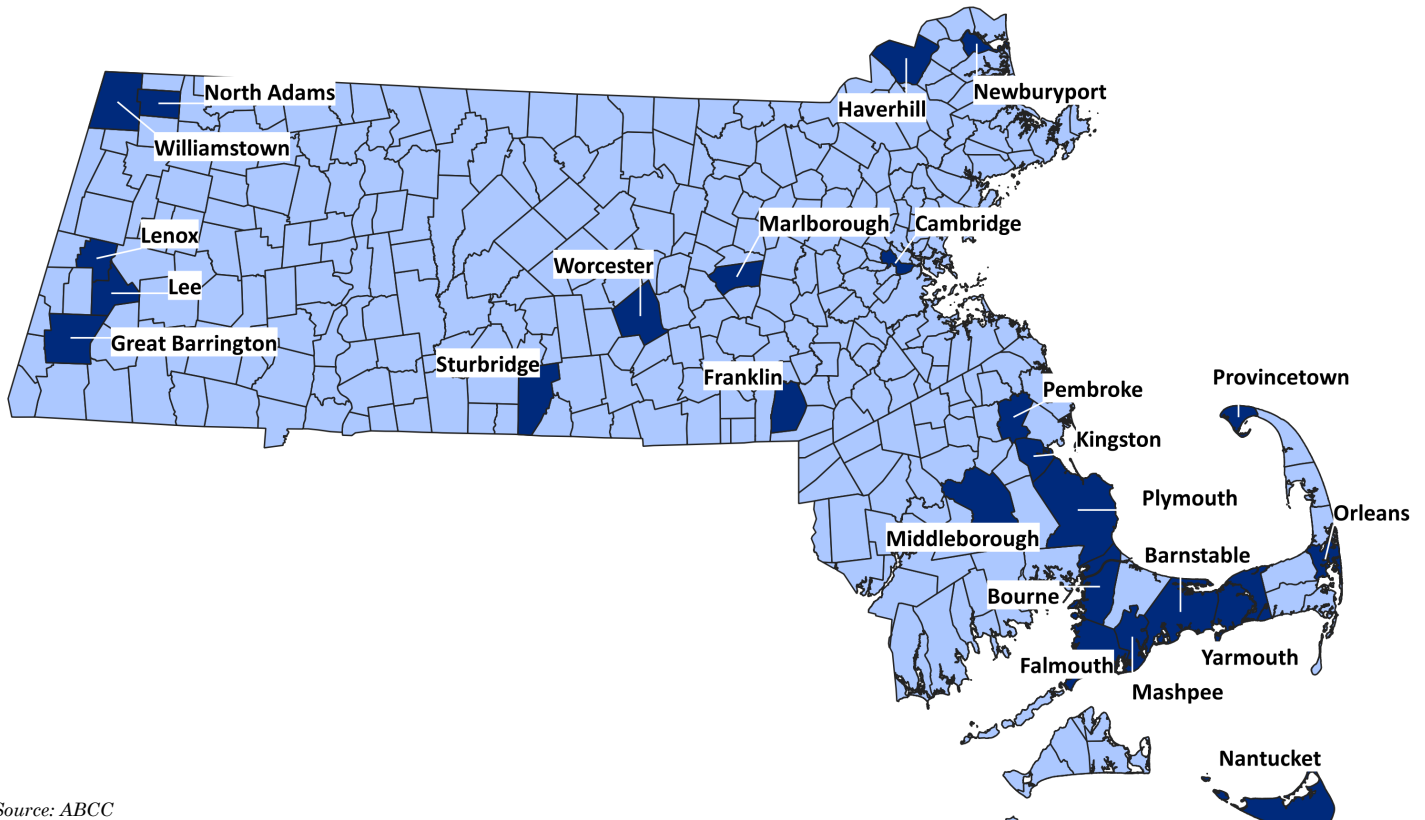
While there are towns in Massachusetts with no liquor licenses due to disinterest by business owners or the small size of the community, there

are eight towns that explicitly ban establishments that serve alcohol—“dry” towns. These eight towns are Dunstable, Westhampton, Chilmark, Montgomery, Alford, Hawley, Mount Washington and Gosnold. Dunstable, with a 2018 population of around 3,350, is the largest, and the average population of these dry towns is just under 1,000.

In 2017, Westhampton made an exception to allow Outlook Farm, a brewery, to sell their wares onsite, granting one pouring license for wine or malt beverages, and requiring extra restrictions based on local feedback. Despite this, the ABCC still lists Westhampton as a dry town.

In addition to the seven dry towns with no licensed liquor establishments, there are 18 towns in Massachusetts that granted no annual liquor licenses of any kind in 2019, for a total of 25 towns with no alcohol-serving businesses. The largest of these is Carlisle, with around 5,200 residents, and the smallest is Gosnold, with around 48 residents.

Map 1: Communities Without a Section 12 Cap



Source: ABCC



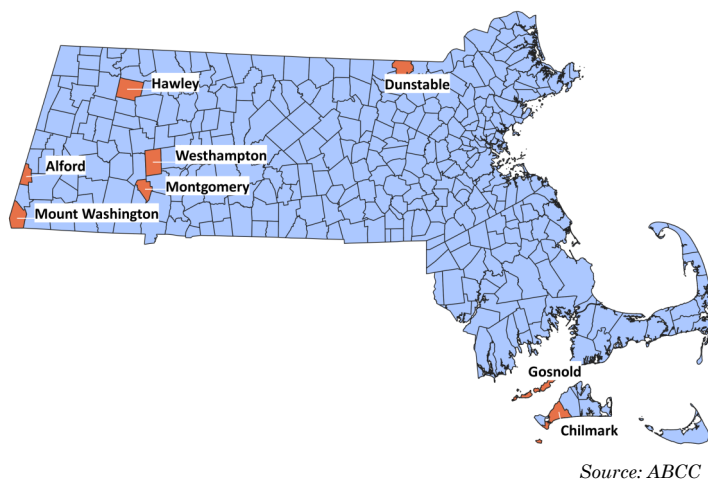
Community Comparisons

While a variety of factors impact alcohol-driven businesses, there are patterns in the distribution of licenses in communities with a quota versus communities without a quota. These differences are consistent with the idea that not having a quota makes it easier and less costly to start a bar or restaurant in a no-quota community, and theoretically leads to more such businesses in those cities or towns.

No-quota communities have 2.2 liquor licenses of all kinds (all-alcohol and wine/malt) per thousand residents, compared to 1.2 licenses per thousand residents of cities and towns with a quota. The 10 largest no-quota communities have 1.7 such licenses per thousand, while the 10 largest communities with a quota have 1.1 such licenses per thousand residents.

For regular (all-alcohol) licenses, the 10 largest no-quota communities have 1.4 licenses per thousand residents, while the 10 largest communities with a quota have 0.91 licenses per thousand. For wine/malt only licenses, the 10 largest no-quota communities have 0.26 licenses per thousand, while communities with a quota have 0.15 licenses per thousand.

Map 2: Dry Towns



One function of having no quota is that wine/malt licenses may be treated differently than in communities with a quota. In no-quota communities, given the option between a license with more restrictions and a license with fewer, business owners may opt for the one that offers them more freedom. In communities with a quota, though, wine/malt licenses may be available where all-alcohol licenses are not. Worcester has around 1.3 regular licenses per thousand residents, the third highest rate among the 11 original Gateway Cities (see table 1). It has .08 wine/malt licenses per thousand residents, the ninth-highest rate. Haverhill, the other Gateway City with no quota, similarly ranks higher for regular licenses than restricted ones.

Worcester Liquor Licenses

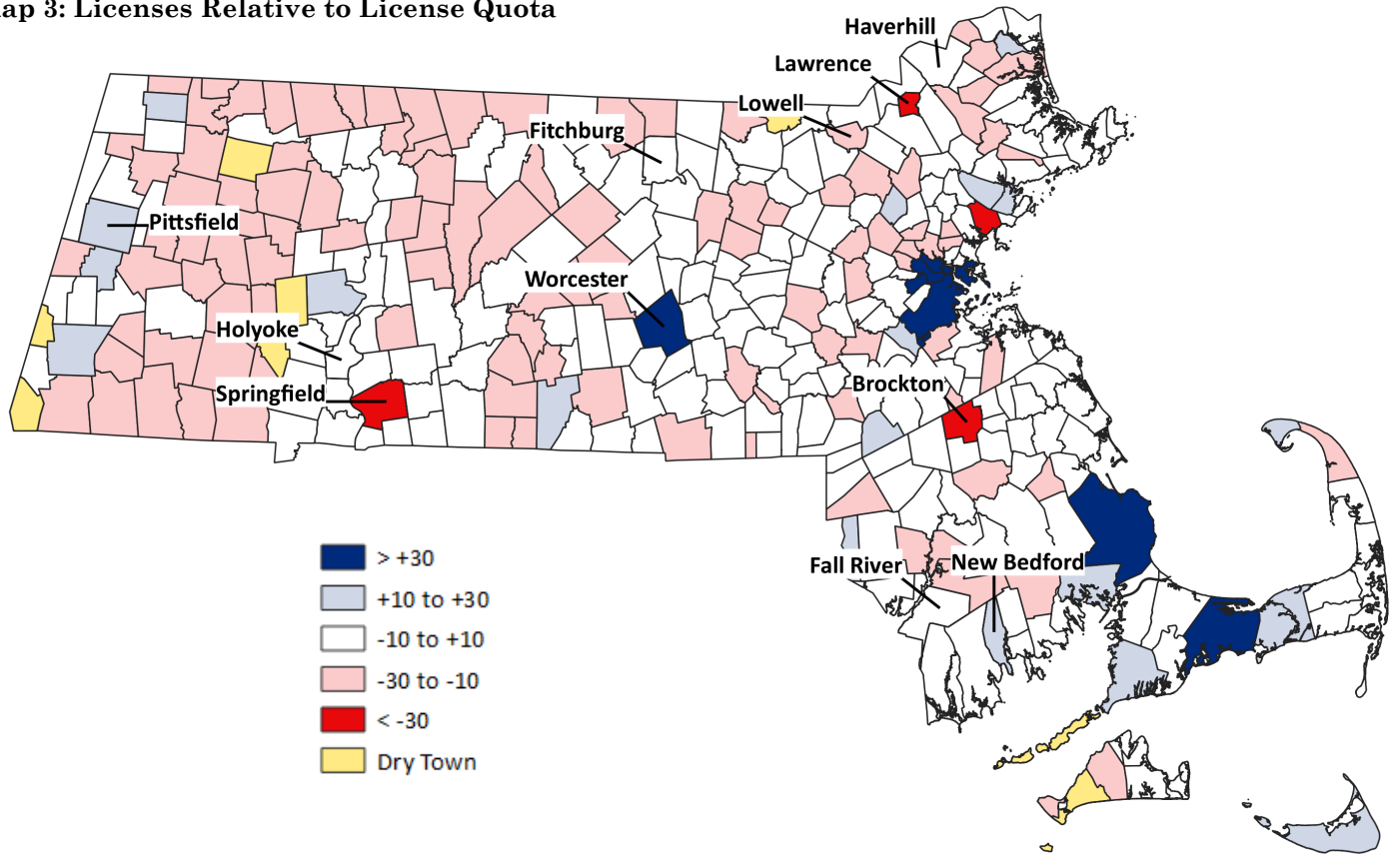
In 2019, the City of Worcester had 240 regular liquor licenses and 15 wine/malt licenses, for a total of 255 organizations that serve alcohol as part or all of their business.

If Worcester was bound by the liquor license quota formula, based on its 2010 population, the city would be restricted to 198 regular licenses and 37 wine/malt licenses. **Worcester exceeds its (hypothetical) quota for regular licenses by 42, the third-largest degree in the state, trailing Boston and Cambridge.**

Worcester has a number of local regulations that are enforced in addition to ABCC rules and regulations. Among these are a rule that each patron may only be served one drink at a time, guidelines for the dimensions of booths to ensure “persons therein can be seen at all times,” a requirement that patrons be given a receipt for any cover charge levied, a ban on window coverings that would obscure the view of the interior from the outside and a ban on bottle service.

Most of Worcester’s liquor licenses are granted to restaurants, mirroring statewide patterns (see charts 2 and 3). Worcester does have significantly more “general on-premises” establishments, often granted to bars or nightclubs that do not serve

Map 3: Licenses Relative to License Quota



All-alcohol licenses only. Source: ABCC and author calculations

Table 1: Gateway City Liquor License Data				
Name	Population	License Cap	Annual Licenses (2019)	Licenses / 1,000 Residents
Pittsfield	43,058	47	63	1.46
New Bedford	95,117	104	126	1.32
Worcester	185,195	198	240	1.30
Holyoke	40,376	42	47	1.16
Fall River	89,339	96	92	1.03
Haverhill	63,280	65	58	0.92
Fitchburg	40,737	43	35	0.86
Lowell	111,249	116	88	0.79
Brockton	95,426	101	68	0.71
Springfield	154,596	167	103	0.67
Lawrence	79,841	83	53	0.66

All-alcohol licenses only. Worcester and Haverhill are no-quota communities. Source: ABCC and author calculations



food. Nearly half of Worcester’s liquor licenses were issued in the last five years, slightly above the statewide figure of 38 percent (see chart 1).

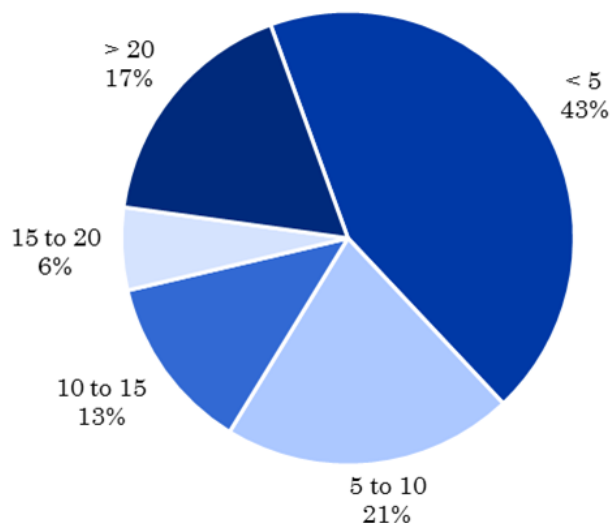
Worcester saw 32 new liquor licenses granted in 2019, including to a new brewery and winery, four bars with arcade or video game themes, and multiple new establishments in the city’s well-established Shrewsbury Street and Canal District corridors.

Conclusion

A cap on on-premises liquor licenses may make sense for some communities, especially those that see limiting the number of bars or restaurants in town as a positive. Given the number of cities and towns that have exceeded their cap, though, it is clear that not everyone sees limiting alcohol-serving establishments as a desirable goal. **If a community’s goal is instead to foster thriving entertainment and nightlife districts, the lack of a pouring license cap has proven to be a competitive advantage when attracting bars, breweries and restaurants.**

State liquor license records show that **the 25 communities without a cap have more liquor licenses per capita, on average, than the rest of the state.** This correlation is to be expected—setting up an alcohol-serving

Chart 1: Worcester Liquor License Ages in Years



Source: ABCC

establishment in a municipality that has reached its cap is more difficult and expensive than opening in a city like Worcester without a cap.

The difference between communities with a cap and those without manifests itself both in the number of bars or restaurants in town and in other ways. Among Gateway Cities, Worcester is third in terms of regular on-premises liquor licenses per capita, behind Pittsfield and New Bedford. But both of those cities—due to being well over the cap—deal with public frustration in the press about a lack of liquor licenses, government officials trying to prevent the loss of

Chart 2: Worcester Liquor License Types

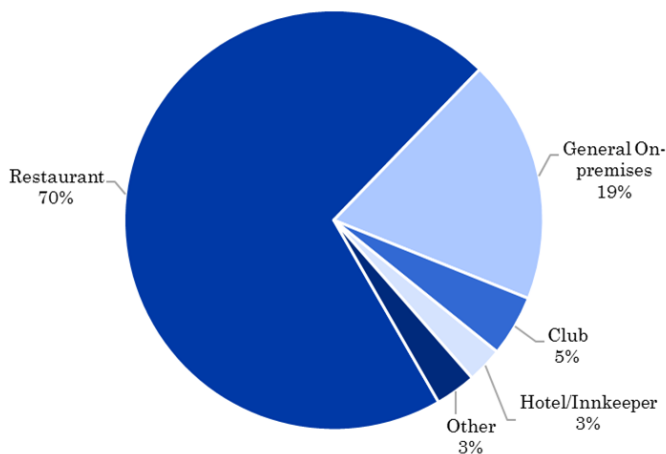
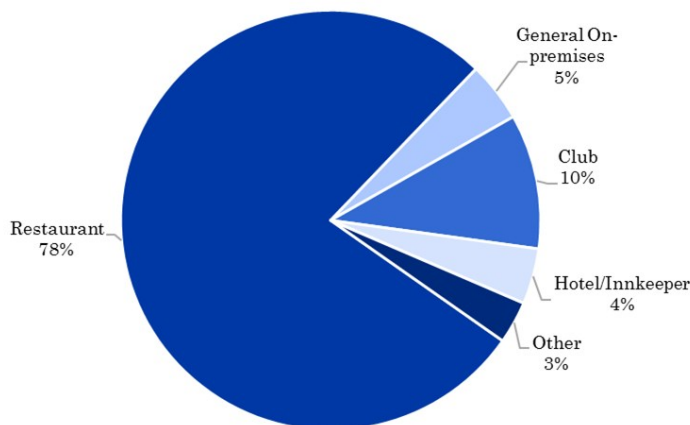


Chart 3: Massachusetts Liquor License Types



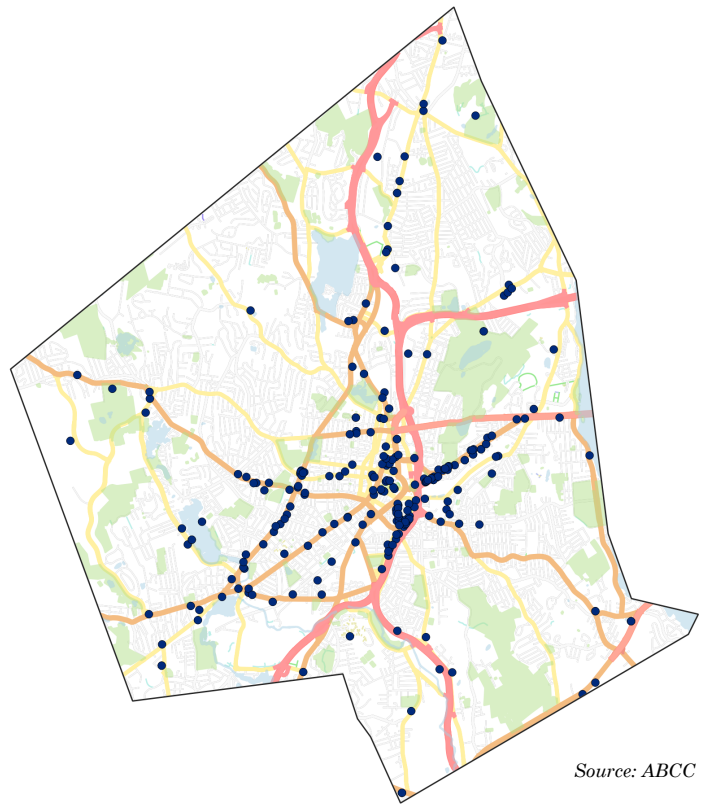
Sources: ABCC



existing licenses when a business closes, and a secondary market where licenses sell for thousands or tens of thousands of dollars. This can be a barrier for entrepreneurs, especially those with limited start-up capital. Meanwhile, in Worcester, the fee for a license is \$200 and liquor license grants and transfers rarely make the news, creating a regulatory structure that is both more equitable and easier to navigate.

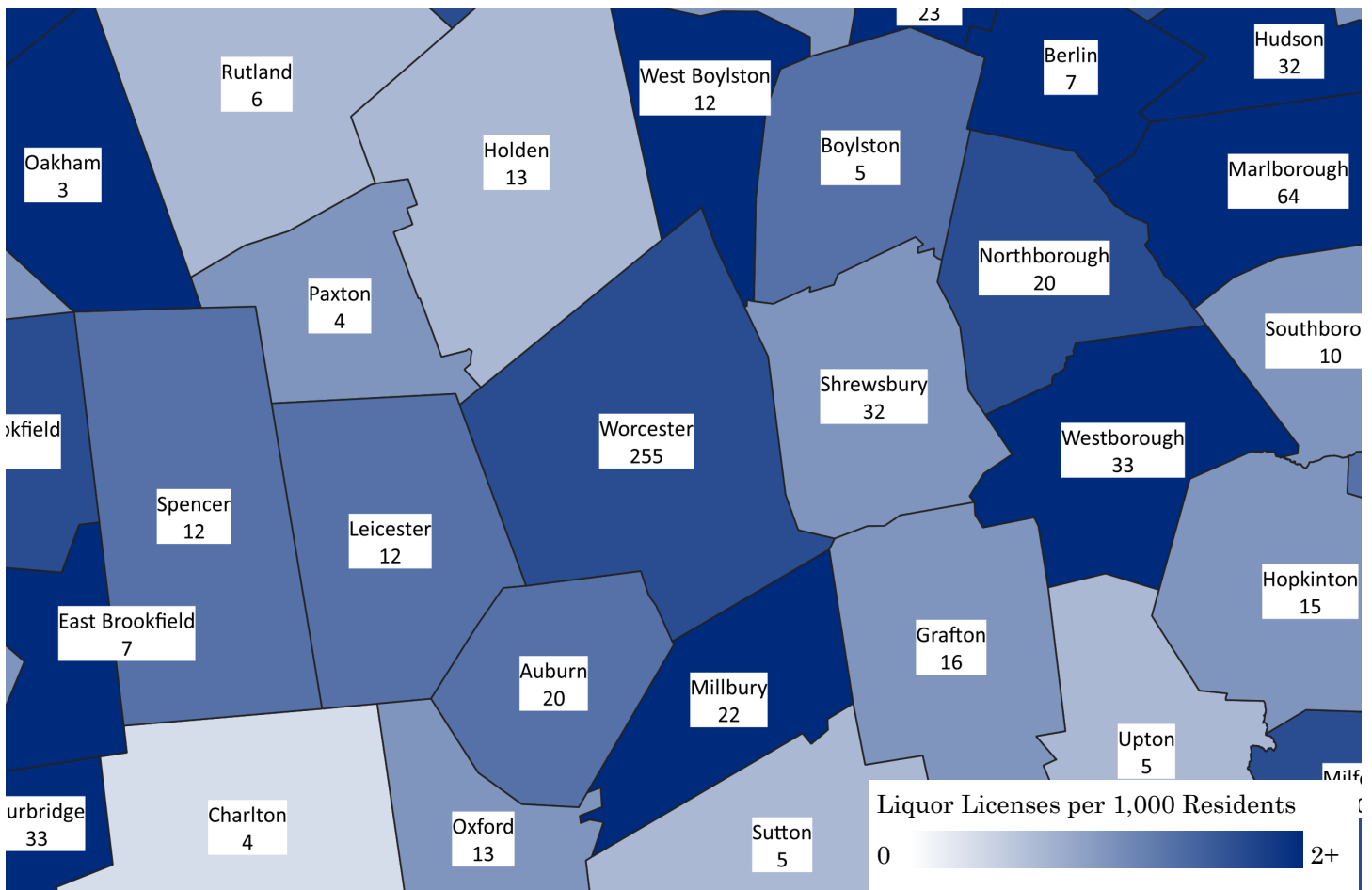
Many factors influence the development of alcohol-based industry, including many that are outside the public policy realm. It is possible that Worcester and other no-cap communities would have developed thriving bar and restaurant scenes while operating under a cap. But **given available data around liquor license patterns statewide, it is clear that the lack of a pouring license cap is a contributing factor to the vibrancy of Worcester's bar and restaurant industry.**

Map 3: Worcester Liquor License Distribution



Source: ABCC

Map 4: Central Massachusetts Liquor Licenses by Municipality



All-alcohol and restricted licenses. Source: ABCC and author calculations



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