

HOUSE No. 102

The Commonwealth of Massachusetts

PRESENTED BY:

William M. Straus and Sarah K. Peake

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to farmer-distilleries.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/18/2023</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/18/2023</i>

HOUSE No. 102

By Representatives Straus of Mattapoisett and Peake of Provincetown, a petition (accompanied by bill, House, No. 102) of William M. Straus and Sarah K. Peake relative to farmer-distilleries. Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to farmer-distilleries.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide support for farmer-distilleries, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 138 of the General Laws, as appearing in the 2020
2 Official Edition, is hereby amended by adding the following definition after the definition of
3 “Direct wine shipper”:-

4 “Direct distilled products shipper”, a person who sells, delivers or exports distilled
5 products to consumers in the commonwealth under a license issued pursuant to section 19I.

6 SECTION 2. Section 15F of said chapter 138, as so appearing, is hereby amended by
7 striking the first paragraph and inserting in place thereof the following paragraph:-

8 Notwithstanding any other provision of chapter 138, in any city or town wherein the
9 granting of licenses to sell wine or distilled spirits is authorized under this chapter, the local

10 licensing authority may issue to an applicant authorized to operate a farmer-distillery under
11 section 19E or a farmer-winery under section 19B or in any other state, a special license for the
12 sale of wine or distilled products produced by or for the licensee in sealed containers for off-
13 premise consumption at an indoor or outdoor agricultural event. All such sales of wine or
14 distilled products shall be conducted by an agent, representative, or solicitor of the licensee to
15 customers who are at least 21 years of age. A licensee under this section may provide, without
16 charge, samples of wine or distilled products to prospective customers at an indoor or outdoor
17 agricultural event. All samples of wine shall be served by an agent, representative, or solicitor of
18 the licensee to individuals who are at least 21 years of age and all samples shall be consumed in
19 the presence of such agent, representative, or solicitor of the licensee; provided, however, that no
20 sample shall exceed one (1) ounce of wine or .25 ounces of distilled product and no more than 5
21 samples shall be served to an individual prospective customer. For the purposes of this section,
22 the term "agricultural event" shall be limited to those events certified by the department of
23 agricultural resources as set forth in this section.

24 SECTION 3. Section 17 of said chapter 138, as so appearing, is hereby amended in line
25 228 by inserting after the word "holder" the following:- "of a farmer-distillery license under
26 section 19E or".

27 SECTION 4. Subsection (h) of section 19E of said chapter 138, as so appearing, is hereby
28 amended in line 120 by striking the word "and"; and

29 in line 121 by inserting after the word "country" the following words:- "; and (10) at
30 retail by the bottle to consumers for consumption off the premises in accordance with a license
31 issued under section 15F".

32 SECTION 5. Subsection (i) of said section 19E of said chapter 138, as so appearing, is
33 hereby amended in line 125 by inserting after the word “premises” the following:- “, except
34 where a farmer-distillery obtains additional licenses for the sale of distilled products to
35 consumers at additional locations off the distillery premises at locations authorized by a license
36 issued pursuant to section 15F”.

37 SECTION 6. Said chapter 138, as so appearing, is hereby amended by adding the
38 following section:-

39 Section 19I. (a) The commission may issue a direct distilled products shipper license
40 pursuant to this section to any person, firm or corporation that holds a federal basic permit
41 pursuant to the federal Alcohol Administration Act, compiled in 27 U.S.C. § 201 et seq.; holds a
42 license in the commonwealth or any other state to manufacture and export distilled products; and
43 is in the business of manufacturing or bottling distilled products.

44 (b) Under this section, a direct distilled products shipper licensee may make sales and
45 delivery of distilled products directly to residents of the commonwealth who are 21 years of age
46 or older, for personal use and not for resale.

47 (c) The fee for a license issued pursuant to this section shall be \$300 per distillery;
48 provided that an affiliate, franchise or subsidiary of the distillery shall require a separate license.
49 Licenses shall be renewed annually at a fee of \$150. If a direct distilled products shipper's license
50 expires and is not renewed, a subsequent application shall be treated as an application for a new
51 license. An applicant for a direct distilled products shipper license shall provide the commission
52 and the department of revenue with a true copy of the applicable alcoholic beverage license to
53 manufacture, export and sell the applicant's distilled products as issued by the appropriate

54 licensing authority. A copy of the direct distilled products shipment license obtained pursuant to
55 this section shall be provided by the commission to the department of revenue.

56 (d) A direct distilled products shipper licensee under this section shall ship wine in
57 accordance with section 22.

58 (e) A direct distilled products shipper licensee may ship up to 12 cases of distilled
59 products, containing not more than 9 liters of distilled product per case, per year to a resident of
60 the commonwealth.

61 (f) A licensee under this section shall: (i) report yearly to the commission and the
62 department of revenue the total number of liters of distilled products shipped into the
63 commonwealth for the preceding year; (ii) pay to the department of revenue, under the
64 department's rules and regulations, for each shipment of distilled products the excise levied on
65 importations of distilled products calculated under section 21 and any and all other applicable
66 taxes; and (iii) upon request, allow the commission or the department of revenue to perform an
67 audit of the direct shipper licensee's records.

68 (g) No person, firm or corporation shall ship distilled products directly to consumers
69 without a direct distilled products shipper license. A person, firm or corporation who
70 manufactures, transports, imports or exports distilled products in violation of this section shall be
71 deemed to have engaged in a deceptive act or practice under chapter 93A.

72 (h) Whoever ships distilled products in violation of this section shall be subject to the
73 following penalties: for a first violation, by suspension of the direct distilled products shipper
74 license for 60 days or a fine of \$500, or both; for a second violation, by suspension of the direct
75 distilled products shipper license for 120 days or a fine of \$1,000, or both; and for a third or

76 subsequent violation, by suspension of the direct distilled products shipper license for 1 year or
77 by a fine of \$3,000, or both. A licensee whose license has been suspended for 1 year or more
78 may apply for a direct distilled products shipper license and shall be treated as a new applicant.
79 The commission may revoke a direct distilled products shipper license after 3 or more violations.

80 (i) If a violation of this section involves the sale or delivery of distilled products to a
81 person under 21 years of age, the commission may impose the following additional penalties: for
82 a first violation, by suspension of the direct shipper license for 180 days or a fine of \$1,000, or
83 both; for a second violation, by suspension of the direct shipper license for 1 year or a fine of
84 \$2,000, or both; and for a third or subsequent violation, by suspension of the direct shipper
85 license for 2 years or by a fine of \$5,000, or both. Nothing in this section shall preclude
86 enforcement of violations of section 34.

87 (j) The commission shall promulgate rules and regulations to effectuate this section. The
88 department of revenue may promulgate rules and regulations necessary to effectuate the
89 oversight and collection of taxes due to the commonwealth as a result of the sale and shipment of
90 distilled products into the commonwealth pursuant to this section.

91 (k) The commission shall issue an annual report to the joint committee on consumer
92 protection and professional licensure, which shall include, but not be limited to, the number of
93 direct distilled products shipment licenses issued and a review of violations and enforcement
94 measures taken pursuant to this section.

95 SECTION 7. Section 22 of said chapter 138, as so appearing, is hereby amended in line
96 60 by striking the words “19B, 19C and 19F” and inserting in place thereof the following:- “19B,
97 19C, 19E, 19F and 19I”.