

HOUSE No. 3891

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Lawn, Jr.

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 shipping of alcohol.

PETITION OF:

NAME:

John J. Lawn, Jr.

DISTRICT/ADDRESS:

10th Middlesex

HOUSE No. 3891

By Mr. Lawn of Watertown, a petition (subject to Joint Rule 12) of John J. Lawn, Jr., for legislation to establish direct retail alcohol shipper licenses for the sale and shipment of alcohol directly to certain residents. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to shipping of alcohol.

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. Chapter 138 of the General Laws, as so appearing in the 2014 Official
2 Edition, is hereby amended by inserting the following new section:-

3 Section 15G. (a) The commission shall issue a direct retail alcohol shipper license
4 pursuant to this section to any person, firm or corporation that holds a license under section 15 of
5 this chapter or the equivalent in any other state. Provided, however, that if a person, firm or
6 corporation is a licensee under section 15 and such person, firm, or corporation, or an affiliate,
7 franchise or subsidiary of such person, firm, or corporation is also a licensee under the equivalent
8 of section 15 in any other state, then only the person, firm, or corporation licensed under section
9 15 shall be eligible for a direct retail alcohol shipper license pursuant to this section.

10 (b) Under this section, a direct retail alcohol shipper licensee may sell and ship alcohol
11 directly to a resident of the Commonwealth or any other state where the shipment is permitted,
12 who is at least 21 years of age, for said resident’s personal use and not for resale purposes.

13 (c) The fee for a license issues pursuant to this section shall be \$300 per licensee.
14 Licenses shall be renewed annually at a fee of \$150. If a direct retail alcohol shipper license
15 expires and is not renewed, a subsequent application shall be treated as an application for a new
16 license. An applicant for a direct retail alcohol shipper license shall provide the commission and
17 the department of revenue with a true copy of the applicable alcoholic beverage license to sell
18 alcohol pursuant to section 15 of this chapter or another state's equivalent as issued by the
19 appropriate licensing authority.

20 (d) A direct retail alcohol shipper licensee under this section shall ship wine in
21 accordance with section 22.

22 (e) A licensee under the equivalent of section 15 of this chapter in any other state who
23 ships alcohol to a resident of the Commonwealth pursuant to subsection (b) shall: (i) report
24 yearly to the commission and the department of revenue the total number of gallons of malt
25 beverages, cider, wine gallons, and proof gallons shipped from without the Commonwealth to a
26 resident of the Commonwealth under this section for the preceding year; (ii) pay to the
27 department of revenue, under the department's rules and regulations, for each shipment under
28 this section the excise calculated under section 21 and any and all other applicable taxes; and (iii)
29 upon request, allow the commission or the department of revenue to perform an audit of the
30 direct shipper licensee's records.

31 (f) No licensee under section 15 of this chapter shall ship alcohol pursuant to subsection
32 (b) without a direct retail alcohol shipper license issued under this section. No licensee under the
33 equivalent of section 15 of this chapter in any other state shall ship alcohol pursuant to
34 subsection (b) to a resident in the Commonwealth without a direct retail alcohol shipper license

35 issued under this section. A person, firm or corporation who manufactures, transports, imports or
36 exports any alcoholic beverage in violation of this section shall be deemed to have engaged in a
37 deceptive act or practice under chapter 93A.

38 (g) Whoever ships any alcoholic beverage in violation of this section shall be subject to
39 the following penalties: for a first violation, by suspension of the direct retail alcohol shipper
40 license for 60 days or a fine of \$500, or both; for a second violation, by suspension of the direct
41 retail alcohol shipper license for 120 days or a fine of \$1,000, or both; and for a third or
42 subsequent violation, by suspension of the direct retail alcohol shipper license for 1 year or by a
43 fine of \$3,000, or both. A licensee whose license has been suspended for 1 year or more may
44 apply for a direct retail alcohol shipper license and shall be treated as a new applicant. The
45 commission may revoke a direct retail alcohol shipper license after 3 or more violations.

46 (h) If a violation of this section involves the sale or delivery of alcohol to a person under
47 21 years of age, the commission may impose the following additional penalties: for a first
48 violation, by suspension of the direct shipper license for 180 days or a fine of \$1,000, or both; for
49 a second violation, by suspension of the direct shipper license for 1 year or a fine of \$2,000, or
50 both; and for a third or subsequent violation, by suspension of the direct shipper license for 2
51 years or by a fine of \$5,000, or both. Nothing in this section shall preclude enforcement of
52 violations of section 34.

53 (i) The commission shall promulgate rules and regulations to effectuate this section. The
54 department of revenue may promulgate rules and regulations necessary to effectuate the
55 oversight and collection of taxes due to the commonwealth as a result of the sale and shipment of
56 alcoholic beverages into the commonwealth pursuant to this section.

57 licensee under the equivalent of section 15 of this chapter in any other state

58 (j) The commission shall issue an annual report to the joint committee on consumer
59 protection and professional licensure, which shall include, but not be limited to, the number of
60 direct retail alcohol shipment licenses issued and a review of violations and enforcement
61 measures taken pursuant to this section.