

SENATE No. 159

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

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 passage of the accompanying bill:

An Act relative to enhancing Alcoholic Beverages Control Commission background checks.

PETITION OF:

NAME:

James E. Timilty

DISTRICT/ADDRESS:

Bristol and Norfolk

SENATE No. 159

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 159) of James E. Timilty for legislation relative to enhancing Alcoholic Beverages Control Commission background checks. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
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An Act relative to enhancing Alcoholic Beverages Control Commission background checks.

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 is hereby amended by inserting after
2 section 70 the following section:-

3 Section 70A. (1) As part of the commission’s licensure and background record check
4 process, the commission shall conduct fingerprint-based checks of the state and national criminal
5 history databases pursuant to this chapter before approving any license under sections 12 and 15
6 under this chapter. Said fingerprint-based checks shall be conducted on any individual applicant,
7 any individual with a direct or indirect beneficial interest in any partnership that is an applicant,
8 any individual with a direct or indirect beneficial interest in any corporation that is an applicant
9 including, but not limited to, any individual who is an officer, director, or stockholder in the
10 corporate applicant, any individual with a direct or indirect beneficial interest in any limited
11 liability company that is an applicant including, but not limited to, any individual who is a
12 member or manager of a limited liability company that is an applicant, and the individual seeking
13 approval to be the license manager required by section 26 of this chapter. Provisions of this
14 section shall not apply to stockholders of a corporation whose stock is listed for sale to the
15 general public with the Securities and Exchange Commission and who hold less than ten per cent
16 of the outstanding stock entitled to vote at the annual meeting of said corporation. The
17 commission shall endeavor to avoid duplicating similar investigations by local licensing
18 authorities. When local licensing authorities do conduct such fingerprint-based checks, the local
19 licensing authorities may appropriately disseminate to the commission all criminal offender
20 record information and the results of checks of state and national criminal information databases,
21 pursuant to this chapter, in accordance with the law.

22 Authorized commission staff may receive and appropriately disseminate all criminal
23 offender record information and the results of checks of state and national criminal information
24 databases, pursuant to this chapter in accordance with the law. When the commission obtains the
25 results of checks of state and national criminal information databases, it shall treat such
26 information in keeping with the provisions of sections 167 through 178, inclusive, of chapter 6
27 and the regulations thereto, regarding criminal offender record information.

28 (2) As part of the commission's licensure and background record check process, the
29 commission may conduct fingerprint-based checks of the state and national criminal history
30 databases, pursuant to this chapter before issuing any license under this chapter that is not a
31 license under section 12 or section 15. Authorized commission staff may receive and
32 appropriately disseminate all criminal offender record information and the results of checks of
33 state and national criminal information databases in accordance with the law. When the
34 commission obtains the results of checks of state and national criminal information databases, it
35 shall treat such information in keeping with the provisions of sections 167 through 178,
36 inclusive, of chapter 6 and the regulations thereto, regarding criminal offender record
37 information.

38 (3) The commission shall collect from each individual who is subject to a fingerprint-
39 based check all fees associated with conducting fingerprint-based checks of the state and national
40 criminal history databases, pursuant to this chapter as set by the commission.

41 (4)(a) Fingerprints, as referenced in this section will be submitted to the identification
42 section of the department of state police for a state criminal history check and forwarded to the
43 Federal Bureau of Investigation for a national criminal history check, according to the policies
44 and procedures established by the identification section and by the department of criminal justice
45 information services. Fingerprint submissions and national criminal history checks may be
46 retained by the department of criminal justice information services for the purposes of ensuring
47 the continued suitability for licensure, certification, approval or employment of those individuals,
48 provided that said department is authorized to disseminate the results of a national criminal
49 history check to the commission for the purpose of determining the suitability of any individual
50 identified in paragraph (1) or (2) of this section.

51 (b) The department of criminal justice information services shall disseminate the results
52 of the criminal background check to the commission. Said department of criminal justice
53 information services shall only disseminate information under this section that would otherwise
54 be available to requesting entities under the provisions of sections 167 through 178, inclusive, of
55 chapter 6 and the regulations thereto, regarding criminal offender record information.

56 (c) The commission shall amend its regulations in a manner necessary to carry out the
57 provisions of this section, provided that the regulations may reflect a phased-in schedule for the

58 fingerprint-based background checks, provided, however, that such phase-in shall not begin prior
59 to September 1, 2015.

60 (d) Any and all persons required to undergo the fingerprinting process described in this
61 shall pay a fee, to be established by the commission in consultation with the secretary of public
62 safety and security, to offset the costs of operating and administering a fingerprint-based criminal
63 background check system, provided that said fee shall not exceed 55 dollars per person;
64 provided, further, that the fee may increase accordingly if the federal bureau of investigation
65 increases its fees for fingerprint background checks services. All fees collected under this
66 section, shall be deposited into the Fingerprint-Based Background Check Trust Fund established
67 under section 2HHHH of chapter 29.

68 (b) The deposits and credits to this fund pursuant to this section shall be utilized for the
69 sole purpose of carrying out pursuant to this section state and national criminal background
70 checks and verifications, including, but not limited to, obtaining or contracting to obtain
71 fingerprints and fees from subjects, making payments charged by the Federal Bureau of
72 Investigation or other entity, staffing the department of state police and the department of
73 criminal justice information services to submit fingerprints and to obtain, verify and disseminate
74 the results of background checks, and maintaining the public safety information systems used to
75 obtain access to fingerprint-based state and national criminal background information.

76 (c) The department of criminal justice information services shall report annually to the
77 house and senate committees on ways and means and the joint committee on consumer
78 protection and professional licensure on the cost of operating and administering the fingerprint-
79 based criminal background check system, including expenditures from the fund and their
80 purposes.

81 SECTION 2. This act shall take effect upon its passage.