

SENATE No. 2459

The Commonwealth of Massachusetts

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

SENATE, Monday, April 23, 2018

The committee on Environment, Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, Senate, No. 418) of James B. Eldridge, Denise Provost, Dylan Fernandes, James R. Miceli and other members of the General Court for legislation to expand the sale of products by farmer breweries,- reports the accompanying bill (Senate, No. 2459).

For the committee,
Anne M. Gobi

SENATE No. 2459

The Commonwealth of Massachusetts

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

An Act expanding the sale of products by farmer breweries and distilleries.

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

1 Chapter 138 of the General Laws, as appearing in the 2016 Official Edition, is hereby
2 amended by striking out section 15F and inserting in place thereof the following section:-

3 Section 15F. Notwithstanding any other provision of this chapter, in any city or town
4 wherein the granting of licenses to sell wines and malt beverages is authorized under this
5 chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-
6 winery under section 19B a special license for the sale of wine produced by or for the licensee or
7 to an applicant authorized to operate a farmer-brewery under section 19C a special license for the
8 sale of malt beverages produced by or for the licensee and, in any city or town wherein the
9 granting of licenses to sell all alcoholic beverages 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 a special license for the sale of distilled spirits produced by or for the licensee, in
12 sealed containers, for off-premises consumption at an indoor or outdoor agricultural event.

13 All sales of alcoholic beverages under this section shall be conducted by the licensee or
14 by an agent, representative or solicitor of the licensee to customers who are at least 21 years of

15 age. A licensee under this section may provide, without charge, samples of its alcoholic
16 beverages to prospective customers at an indoor or outdoor agricultural event. All samples shall
17 be served by the licensee or by an agent, representative or solicitor of the licensee to individuals
18 who are at least 21 years of age and all samples shall be consumed in the presence of the licensee
19 or in the presence of an agent, representative or solicitor of the licensee; provided, however, that
20 no sample of wine shall exceed 1 ounce, no sample of malt beverages shall exceed 2 ounces, and
21 no sample of distilled spirits shall exceed $\frac{1}{4}$ ounce; and provided further, that not more than 5
22 samples shall be served to an individual prospective customer. For the purposes of this section,
23 “agricultural event” shall be limited to those events certified by the department of agricultural
24 resources as set forth in this section.

25 An applicant for a special license under this section shall first submit a plan to the
26 department of agricultural resources that shall demonstrate that the event is an agricultural event.
27 The plan shall include a description of the event, the date, time and location of the event, a copy
28 of the operational guidelines or rules for the event, written proof that the prospective licensee has
29 been approved as a vendor at the event, including the name and contact information of the on-
30 site manager, and a plan depicting the premises and the specific location where the license shall
31 be exercised.

32 Upon review of the plan, the department may certify that the event is an agricultural
33 event; provided, however, that in making that determination, the department shall consider: (i)
34 operation as a farmers' market or agricultural fair approved or inspected by the department; (ii)
35 the frequency and regularity of the event, including dates, times and locations; (iii) the number of
36 vendors; (iv) the terms of vendor agreements; (v) the presence of an on-site manager; (vi) the
37 training of the on-site manager; (vii) any operational guidelines or rules which shall include

38 vendor eligibility and produce source; (viii) the focus of the event on local agricultural products
39 grown or produced within the market area; (ix) the types of shows or exhibits, including those
40 described in subsection (f) of section 2 of chapter 128; and (x) the event's sponsorship or
41 operation by an agricultural or horticultural society organized under the laws of the
42 commonwealth or by a local grange organization or association which has a primary purpose of
43 promoting agriculture and its allied industries. The department of agricultural resources may
44 promulgate rules and regulations necessary for the operation, oversight, approval and inspection
45 of agricultural events under this section.

46 An applicant for a special license under this section shall file with the local licensing
47 authority along with its application proof of certification from the department of agricultural
48 resources that the event is an agricultural event. A special license under this section shall
49 designate the specific premises and the dates and times covered. A special license may be
50 granted for an indoor or outdoor agricultural event which takes place on multiple dates or times
51 during a single calendar year but no special license shall be granted for an agricultural event that
52 shall not take place within 1 calendar year. The special license shall be conspicuously displayed
53 at the licensed premises. A copy of a special license granted by the local licensing authority shall
54 be submitted by the authority to the commission at least 7 days before the date the agricultural
55 event is first scheduled to begin. The local licensing authority may charge a fee for each special
56 license granted but such fee shall not exceed \$50. A special license granted under this section
57 shall be nontransferable to any other person, corporation or organization and shall be clearly
58 marked "nontransferable" on its face.

59 The commission may promulgate rules and regulations as it deems appropriate to
60 effectuate this section.

61 A special license under this section may be granted by the local licensing authorities for a
62 portion of premises that are licensed under section 12; provided, however, that: (i) the holder of
63 the special license shall document the legal basis for use of the section 12 licensed premises; (ii)
64 the area in which the special license is to be approved shall be physically delineated from the
65 area remaining under the control of the section 12 license holder; (iii) the holder of the special
66 license shall be solely liable for all activities that arise out of the special license; and (iv) the
67 holder of the special license shall not pay any consideration, directly or indirectly, to the section
68 12 licensee for the access to or use of the section 12 licensee's premises.