

SENATE No. 2867

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 to enhance diversity in the awarding of liquor licenses.

PETITION OF:

NAME:

James B. Eldridge
Danillo A. Sena

DISTRICT/ADDRESS:

Middlesex and Worcester
37th Middlesex

SENATE No. 2867

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 2867) (subject to Joint Rule 12) of James B. Eldridge and Danillo A. Sena for legislation to enhance diversity in the awarding of liquor licenses. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act to enhance diversity in the awarding of liquor licenses.

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 13A of chapter 30A of the General Laws, as so appearing in the
2 2018 Official Edition, is hereby amended by inserting after the word "number," in line 4, the
3 following words:- or for the purposes of chapter 138 an individual taxpayer identification
4 number.

5 SECTION 2. Said section 13A of said chapter 30A, as so appearing, is hereby amended
6 by inserting after the word "number," in line 5, the following words:- or individual taxpayer
7 identification number.

8 SECTION 3. Said section 13A of said chapter 30A, as so appearing, is hereby amended
9 by inserting after the word "number," in line 7, the following words:- or individual taxpayer
10 identification number.

11 SECTION 4. Said section 13A of said chapter 30A, as so appearing, is hereby amended
12 by inserting after the word "number," in line 10, the following words:- or individual taxpayer
13 identification number.

14 SECTION 5. Section 15 of chapter 138 of the General Laws, as so appearing, is hereby
15 amended by striking out the first sentence and inserting in place thereof the following sentence:-

16 The local licensing authorities in any city or town which votes to authorize the granting
17 of licenses for the sale of all alcoholic beverages, and such authorities in any city or town which
18 votes to authorize the granting of licenses for the sale of wines and malt beverages only, may
19 grant licenses for the sale at retail of such alcoholic beverages or wines and malt beverages, as
20 the case may be, not to be drunk on the premises, to applicants therefor who hold a valid social
21 security number or individual taxpayer identification number and are residents of the
22 commonwealth, or partnerships composed solely of such individuals that hold a valid social
23 security number or individual taxpayer identification number and are residents or to corporations
24 organized under the laws of the commonwealth and whereof all directors shall hold a social
25 security number or individual taxpayer identification number and a majority residents of the
26 commonwealth or to limited liability companies or limited liability partnerships organized under
27 the laws of the commonwealth, subject to such conditions as the commission may prescribe by
28 regulation to address issues of residency and the requirements for a manager or principal
29 representative of a non-citizen licensee under section 26 as qualifications for a limited liability
30 company or limited liability partnership to hold a license pursuant to this section and sections 18,
31 18A, 19, 19B and 19C, or to an applicant licensed to operate as a farmer-winery under said
32 section 19B or in any other state.

33 SECTION 6. Section 18 of said chapter 138, as so appearing, is hereby amended by
34 striking out the first sentence and inserting in place thereof the following sentence:-

35 The commission may issue to any individual who holds a social security number or
36 individual taxpayer identification number and is a resident of the commonwealth, and to any ship
37 chandler licensed under the provisions of section thirteen and to partnerships composed solely of
38 such individuals, and to corporations organized under the laws of the commonwealth whereof all
39 the directors hold a valid social security number or individual taxpayer identification number and
40 a majority thereof residents of the commonwealth and to limited liability companies and limited
41 liability partnerships organized under the laws of the commonwealth, subject to such conditions
42 as the commission may prescribe by regulation to address issues of residency and the
43 requirements for a manager or principal representative of a non-citizen licensee under section 26
44 as qualifications for a limited liability company or limited liability partnership to hold a license
45 pursuant to this section and sections 15, 18A, 19, 19B and 19C, licenses as wholesalers and
46 importers (1) to sell for resale to other licensees under this chapter alcoholic beverages
47 manufactured by any manufacturer licensed under the provisions of section nineteen and to
48 import alcoholic beverages into the commonwealth from holders of certificates issued under
49 section eighteen B whose licensed premises are located in other states and foreign countries for
50 sale to such licensees, or (2) to sell for resale wines and malt beverages so manufactured to such
51 licensees and to import as aforesaid wines and malt beverages for sale to such licensees.

52 SECTION 7. Section 18A of said chapter 138, as so appearing, is hereby amended by
53 striking out the first paragraph and inserting in place thereof the following paragraph:-

54 The commission may issue to any individual who holds a social security number or
55 individual taxpayer identification number and is a resident of the commonwealth, or to any
56 partnership composed solely of such individuals, or to any corporation organized under the laws
57 of the commonwealth or organized under the laws of any other state of the United States or of
58 any foreign country and admitted to do business in the commonwealth or to a limited liability
59 company or a limited liability partnership organized under the laws of the commonwealth,
60 subject to such conditions as the commission may prescribe by regulation to address issues of
61 residency and the requirements for a manager or principal representative of a non-citizen
62 licensee under section 26 as qualifications for a limited liability company or limited liability
63 partnership to hold a license pursuant to this section and sections 15, 18, 19, 19B and 19C, a
64 license which shall authorize the licensee to act as agent, broker or solicitor for any specified
65 individual, corporation or partnership in another state or foreign country engaged in the business
66 of manufacturing, importing or selling alcoholic beverages, hereinafter called the principal, and,
67 on behalf of such principal, to solicit orders for such beverages from holders of licenses under
68 section eighteen only. A license granted hereunder shall authorize representation of one principal
69 only, but the licensee may also, in the discretion of the commission, be licensed hereunder to
70 represent other principals. No licensee hereunder shall buy or sell alcoholic beverages for his
71 own account, and no such beverages shall be brought into the commonwealth in pursuance of the
72 exercise of such a license otherwise than through a licensee under said section eighteen.

73 SECTION 8. Section 18C of said chapter 138, as so appearing, is hereby amended by
74 striking out subsection (a) and inserting in place thereof the following subsection:-

75 (a) The commission may issue to an individual who holds a social security number or
76 individual taxpayer identification number and is a resident of the commonwealth or to a

77 corporation organized under the laws of the commonwealth whose directors are all holders of a
78 social security number or individual taxpayer identification number and a majority of them
79 residents of the commonwealth, or to a limited liability company or limited liability partnership
80 organized under the laws of the commonwealth whose members are all holders of a social
81 security number or individual taxpayer identification number and a majority of them residents of
82 the commonwealth, a license to import alcoholic beverages into the commonwealth for use only
83 in connection with the manufacture of food products, including ice cream. Nothing in this section
84 shall authorize the holder of an importer's license issued under this section to sell alcoholic
85 beverages as he is licensed to import only, or to export alcoholic beverages from the
86 commonwealth into any other state or into a foreign country. A vote in a city or town pursuant to
87 section 11 shall not prevent the granting or renewal of a license under this section. All alcoholic
88 beverages purchased by a licensee under this section, and all alcoholic beverages shipped into
89 the commonwealth pursuant to any such purchase, shall be warehoused at the warehouse
90 facilities of the licensee and held in his physical possession at the warehouse. An importer under
91 this section shall keep such records as the commission may prescribe and shall file with the
92 commission, as often as it may require, duplicates or copies of those records. The commission
93 shall have, at all times through its designated officers or agents, access to all books, records and
94 other documents of each licensed importer relating to the licensee's importer business.

95 SECTION 9. Section 19 of said chapter 138, as so appearing, is hereby amended by
96 striking out subsection (a) and inserting in place thereof the following subsection:—

97 (a) The commission may issue to any individual who holds a social security number or
98 individual taxpayer identification number and is a resident of the commonwealth and to
99 partnerships, composed solely of such individuals, and to corporations organized under the laws

100 of this commonwealth or organized under the laws of any other state of the United States and
101 admitted to do business in this commonwealth and to limited liability companies and limited
102 liability partnerships organized under the laws of the commonwealth, subject to such conditions
103 as the commission may prescribe by regulation to address issues of residency and the need for a
104 license manager under section 26 as qualifications for a limited liability company or limited
105 liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19B and
106 19C, licenses to manufacture alcoholic beverages. Manufacturers of such beverages may sell the
107 same to any licensee holding a valid license granted by the licensing authorities for the sale
108 within the commonwealth in accordance with the provisions of this chapter, and may also sell
109 such beverages for export from this commonwealth into any state where the sale of the same is
110 not by law prohibited, and into any foreign country; and manufacturers of such beverages may
111 sell the same to any registered pharmacist holding a certificate of fitness under section thirty and
112 also as authorized by section twenty-eight.

113 Subject to such regulations as may be prescribed by the commission, licensees under this
114 section may rectify or blend, but only upon such premises and under such conditions as the
115 commission shall approve, alcoholic beverages manufactured by them. All alcoholic beverages
116 sold by any manufacturer thereof shall be sold and delivered in such manner, and under such
117 conditions, and with such labels or other marks to identify the manufacturer, as the commission
118 shall from time to time prescribe by regulations; provided, that sales of such beverages may be
119 made in kegs, casks, barrels or bottles, to holders of wholesalers' and importers' licenses; and
120 provided, further, that sale of wines and malt beverages may be made in kegs, casks or barrels by
121 any manufacturer licensed under this section to licensees authorized to sell such beverages under
122 section twelve, thirteen or fourteen and, for the sole purpose of resale in the containers in which

123 the same were delivered, to licensees under section fifteen. No licensee under section fifteen
124 shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such
125 containers.

126 Every licensed manufacturer of alcoholic beverages shall keep such records in such detail
127 and affording such information as the commission may from time to time prescribe, and shall file
128 with the commission, whenever and as often as it may require, duplicates of copies of such
129 records; and the commission shall at all times, through its designated officers or agents, have
130 access to all books, records and other documents of every licensed manufacturer relating to the
131 business which he is licensed hereunder to conduct.

132 The license fee for each manufacturer of alcoholic beverages, in respect of each plant,
133 shall be such sum, not less than \$6,000 nor more than \$10,000, as under the circumstances of the
134 licensee's probable volume of sales under this section, the capacity of his plant and the location
135 thereof, the commission shall deem just and proper; provided, that the license fee for each
136 manufacturer of cider or other alcoholic beverage made from apples shall be such sum, not less
137 than twenty-five nor more than two hundred and fifty dollars, as the commission shall deem just
138 and proper, but no such fee shall be collected from any such manufacturer for the making of
139 cider, the sale of which is authorized by section three without a license.

140 No vote in any city or town under section eleven shall prevent the granting or renewal of
141 a license under this section.

142 SECTION 10. Section 19A of said chapter 138, as so appearing, is hereby amended by
143 striking out, in line 2, the word "citizens" and inserting in place thereof the following word:-
144 residents.

145 SECTION 11. Section 19B of said chapter 138, as so appearing, is hereby amended by
146 striking out subsection (a) and inserting in place thereof the following subsection:-

147 (a) For the purpose of encouraging the development of domestic vineyards, the
148 commission shall issue a farmer-winery license to any applicant who holds a social security
149 number or individual taxpayer identification number and is a resident of the commonwealth, and
150 to applying partnerships composed solely of such individuals, and to applying corporations
151 organized under the laws of the commonwealth or organized under the laws of any other state of
152 the United States and admitted to do business in this commonwealth and to applying limited
153 liability companies and limited liability partnerships organized under the laws of the
154 commonwealth, subject to such conditions as the commission may prescribe by regulation to
155 address issues of residency and the need for a license manager under section 26 as qualifications
156 for a limited liability company or limited liability partnership to hold a license pursuant to this
157 section and sections 15, 18, 18A, 19 and 19C, unless:

158 (1) such person does not comply with reasonable application procedures required by the
159 commission; or

160 (2) the commission determines that such person is not of responsible character; or

161 (3) a church or school located within five hundred feet of the winery premises has
162 objected to issuance of the license in accordance with section sixteen C; or

163 (4) the commission determines that the applicant retains or owns an interest, directly or
164 indirectly, in the business of a licensee under section twelve or fifteen; or

165 (5) the commission determines that the applicant retains or owns an interest, directly or
166 indirectly in more than one business licensed under section eighteen; or

167 (6) the applicant has not furnished the requisite license fee or bond; or

168 (7) the commission determines that the co-partners, corporate officials or stockholders of
169 the applicant do not meet the requirements of paragraphs (2), (4) and (5), or that the manager or
170 agent intended to conduct the winery business on the applicant's behalf does not meet such
171 requirements, or that such co-partners, officials, stockholders, agent or manager remain
172 undisclosed.

173 SECTION 12. Section 19C of said chapter 138, as so appearing, is hereby amended by
174 striking out subsection (a) and inserting in place thereof the following subsection:-

175 (a) For the purpose of encouraging the development of domestic farms, the commission
176 shall issue a farmer-brewery license to any applicant who holds a social security number or
177 individual taxpayer identification number and is a resident of the commonwealth and to applying
178 partnerships composed solely of such individuals, and to applying corporations organized under
179 the laws of the commonwealth or organized under the laws of any other state of the United States
180 and admitted to do business in the commonwealth and to applying limited liability companies
181 and limited liability partnerships organized under the laws of the commonwealth, subject to such
182 conditions as the commission may prescribe by regulation to address issues of residency and the
183 need for a license manager under section 26 as qualifications for a limited liability company or
184 limited liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19
185 and 19B, unless: (1) such person does not comply with reasonable application procedures
186 required by the commission; or

187 (2) the commission determines that such person is not of responsible character; or

188 (3) a church or school located within five hundred feet of the brewery premises has
189 objected to issuance of the license in accordance with section sixteen C; or

190 (4) the commission determines that the applicant retains or owns an interest, directly or
191 indirectly, in the business of a licensee under section twelve or fifteen; or

192 (5) the commission determines that the applicant retains or owns an interest, directly or
193 indirectly in more than one business licensed under section eighteen; or

194 (6) the applicant has not furnished the requisite license fee or bond; or

195 (7) the commission determines that the co-partners, corporate officials or stockholders of
196 the applicant do not meet the requirements of clauses (2), (4) and (5), or that the manager or
197 agent intended to conduct the farmer-brewery business on the applicant's behalf does not meet
198 such requirements, or that such co-partners, officials, stockholders, agent or manager remain
199 undisclosed.

200 SECTION 13. Section 19D of said chapter 138, as so appearing, is hereby amended by
201 striking out subsection (a) and inserting in place thereof the following subsection:-

202 (a) The commission shall issue a pub brewery license to an applicant who holds a social
203 security number or individual taxpayer identification number and is a resident of the
204 commonwealth and to applying partnerships and to applying corporations organized under the
205 laws of the commonwealth or organized under the laws of any other state and admitted to do
206 business in the commonwealth and to applying limited liability companies or limited liability
207 partnerships organized under the laws of the commonwealth unless:

- 208 (1) such person does not comply with application procedures required by the
209 commission;
- 210 (2) the commission determines that such applicant is not of responsible character;
- 211 (3) a church or school located within 500 feet of the brewery premises has objected to the
212 issuance of such license in accordance with the provisions of section 16C and the commission
213 finds that the pub brewery premises are detrimental to the spiritual activities of such church;
- 214 (4) the commission determines that the applicant retains or owns an interest, directly or
215 indirectly, in the business of a licensee under section 15 or a business which would be licensed
216 under said section 15 if it were located within the commonwealth;
- 217 (5) the commission determines that the applicant retains or owns an interest, directly or
218 indirectly, in a business license under section 18 or a business which would be licensed under
219 said section 18 if it were located within the commonwealth;
- 220 (6) the commission determines that the applicant retains or owns an interest, directly or
221 indirectly, in any activity or in any business directly or indirectly engaged in the business of
222 manufacturing any alcoholic beverages either within or outside of the commonwealth, except
223 any interest, directly or indirectly, in a pub brewery license under this section or any business
224 which would be licensed as a pub brewery under this section if it were located within the
225 commonwealth;
- 226 (7) the commission determines that the applicant retains or owns an interest, directly or
227 indirectly, in the business of a holder of a certificate issued under section 18B;
- 228 (8) the applicant has not furnished the requisite license fee or bond; or

229 (9) the commission determines that the co-partners, corporate officials or stockholders of
230 the applicant do not meet the requirements of clauses (2), (4), (5), (6), (7) and (8), or that the
231 manager or agent intended to conduct the pub brewery business on the applicant's behalf does
232 not meet such requirements, or that such co-partners, officials, stockholders, agents or managers
233 remain undisclosed.

234 SECTION 14. Section 19E of said chapter 138, as so appearing, is hereby amended by
235 striking out subsection (a) and inserting in place thereof the following subsection:-

236 (a) For the purpose of encouraging the development of domestic farms, the commission
237 shall issue a farmer-distillery license to an applicant who holds a social security number or
238 individual taxpayer identification number and is a resident of the commonwealth and to applying
239 partnerships composed solely of such individuals, and to applying corporations organized under
240 the laws of the commonwealth or organized under the laws of any other state of the United States
241 and admitted to do business in the commonwealth, unless:-

242 (1) such person does not comply with reasonable application procedures required by the
243 commission;

244 (2) the commission determines that such person is not of responsible character;

245 (3) a church or school located within 500 feet of the farmer-distillery premises has
246 objected to the issuance of a license in accordance with section 16C;

247 (4) the commission determines that the applicant retains or owns an interest, directly or
248 indirectly, in the business of a licensee under section 12 or 15;

249 (5) the commission determines that the applicant retains or owns an interest, directly or
250 indirectly, in more than 1 business licensed under section 18;

251 (6) the applicant has not furnished the requisite license fee or bond; or

252 (7) the commission determines that the co-partners, corporate officials or stockholders of
253 the applicant do not meet the requirements of paragraphs (2), (4) and (5) or that the agent or
254 manager who intends to conduct the farmer-distillery business on the applicant's behalf does not
255 meet the requirements or that the co-partners, officials, stockholders, agent or manager remain
256 undisclosed.

257 SECTION 15. Section 19G of said chapter 138, as so appearing, is hereby amended by
258 striking out subsection (a) and inserting in place thereof the following subsection:-

259 (a) The commission may issue a tenant brewer license which authorizes the licensee to
260 manufacture or package malt beverages on the premises of a host brewer to any individual
261 applicant who holds a social security number or individual taxpayer identification number and is
262 a resident of the commonwealth or to a corporation, partnership or other entity which complies
263 with the requirements of section 26 and is a holder of a certificate of compliance issued pursuant
264 to section 18B. An applicant for a tenant brewer license shall provide the commission and the
265 department of revenue with a true copy of the applicable alcoholic beverage license to
266 manufacture, export and import as issued by the appropriate licensing authority.

267 To be eligible for a tenant brewer license, the applicant shall: (i) be licensed pursuant to
268 section 19 or section 19C or a license holder outside the commonwealth that is authorized to
269 manufacture, export and import malt beverages; (ii) comply with any federal law regulating the
270 manufacture, export or import of malt beverages as identified by the commission in a written

271 guidance that shall be issued to each host brewer, tenant brewer and wholesaler licensed pursuant
272 to section 18; and (iii) shall have an approved alternating proprietorship arrangement that allows
273 the applicant to use the facilities, equipment and employees of a host brewer.

274 A tenant brewer may import such raw materials as are required solely for the production
275 and packaging of the malt beverages including, without limitation, bulk malt beverages produced
276 by the tenant brewer at its brewery of origin. The bulk malt beverages imported by the tenant
277 brewer shall be packaged and shipped back to the tenant brewer's brewery of origin or to a
278 wholesaler licensed pursuant to section 18 or to a license holder outside the commonwealth
279 authorized to import malt beverages designated by the tenant brewer within 10 days after receipt
280 by the host brewer.

281 Any product produced or packaged at the host brewer's premises shall be removed from
282 the host brewer's premises within 10 days after the brewing or packaging process is completed.
283 The finished product shall be returned to the tenant brewer's brewery of origin or to a wholesaler
284 licensed pursuant to section 18 or to a license holder outside the commonwealth authorized to
285 import malt beverages designated by the tenant brewer.

286 SECTION 16. Said chapter 138 is hereby amended by striking out section 26, as so
287 appearing, and inserting in place thereof the following section:—

288 Section 26. No license for the sale of alcoholic beverages or alcohol and no vehicle
289 permit for the transportation thereof shall be issued to any person who does not, at the time of the
290 person's application therefor, hold a social security number or individual taxpayer identification
291 number, or to any agent of any such person, and no person who does not hold a social security
292 number or individual taxpayer identification number shall be appointed as manager or other

293 principal representative of any licensee; provided, that nothing herein shall prevent the granting
294 of a license under section eighteen A to any corporation organized under the laws of a foreign
295 country or the granting of a vehicle permit to such a corporation so licensed.

296 No corporation, organized under the laws of the commonwealth or of any other state or
297 foreign country, shall be given a license to sell in any manner any alcoholic beverages unless
298 such corporation shall have first appointed, in such manner as the licensing authorities by
299 regulation prescribe, as manager or other principal representative, a holder of a social security
300 number or individual taxpayer identification number, and shall have vested in the manager or
301 other principal representative by properly authorized and executed written delegation as full
302 authority and control of the premises, described in the license of such corporation, and of the
303 conduct of all business therein relative to alcoholic beverages as the licensee itself could in any
304 way have and exercise if it were a natural person resident in the commonwealth, nor unless such
305 manager or representative is, with respect to the manager or representative's character,
306 satisfactory to the licensing authorities.

307 No provision of this chapter shall impair any right growing out of any treaty to which the
308 United States is a party.