

SENATE No.

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 passage of the accompanying bill:

An Act to expand the sale of products by farmer-wineries, farmer-breweries, and farmer-distilleries.

PETITION OF:

NAME:

James B. Eldridge

DISTRICT/ADDRESS:

Middlesex and Worcester

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO EXPAND THE SALE OF PRODUCTS BY FARMER-WINERIES, FARMER-BREWERIES, AND FARMER-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 Section 1.

2 Section 1A of Chapter 128 is hereby amended by adding in the first sentence after the words
3 “growing and harvesting of any agricultural, aquacultural, floricultural or horticultural
4 commodities” the following:-

5

6 “including fruit or any other agricultural commodity used in the production of cider, wine, spirits or beer,

7

8 Section 2.

9 Section 12 of Chapter 138 of the general laws is hereby amended by adding at the end thereof the
10 following:-

11

12 “The local licensing authorities of any city or town wherein the granting of licenses under this
13 section to sell alcoholic beverages or only wines and/or malt beverages, as the case may be, is
14 authorized, to issue to any applicant who is licensed in this or any other state as a wine producer,
15 beer producer or distilled spirits producer, a license to sell spirits, wine and/or beer to travelers,
16 strangers and other patrons and customers not under twenty-one years of age to be served and
17 consumed on premises provided that the premises to be licensed are actively engaged in farming

18 and the farming premises are under the control of the applicant. Provided further, that a license
19 issued under this section to a wine, beer or distilled spirits producer shall be limited to the sale of
20 wine, malt beverage or alcoholic beverage produced by the applicant on the farm premises to be
21 licensed. The license shall be subject to such other restrictions as the local licensing authority
22 may deem reasonable and proper. For purposes of this section, the words “ farm” and “farming”
23 are defined by Chapter 128, Section 1A.”

24

25

26 Section 3.

27

28 Section 15 of Chapter 138 is hereby amended by adding at the end of the first sentence after the
29 words “hold a license pursuant to this section and sections 18, 18A, 19, 19B, and 19C” the
30 following:-

31

32 “or to applicants who are licensed in this or any other state as a wine producer, beer producer or
33 distilled spirits producer provided further that with respect to a license issued under this section
34 to a wine producer, beer producer or distilled spirits producer, such retail sales of wine, beer or
35 spirits shall be limited to the sale of alcohol, wine or beer produced by applicant. Provided
36 further that the local licensing authority shall stipulate the premises and times covered by the
37 license as well as any other restrictions deemed reasonable. The commission may promulgate
38 rules and regulations necessary to effectuate its alcohol oversight, licensing and enforcement
39 purposes under this chapter”;

40

41 And said section 15 of Chapter 138 is further amended by adding in the second sentence of the
42 second paragraph after the words, “and upon each annual renewal of licenses under this section,
43 the amount of the license fee” the following:-

44

45 “and nothing shall prohibit the local licensing authority from establishing reduced fees for
46 limited licenses issued to applicants who are licensed in this or any other state as a wine
47 producer, beer producer or distilled spirits producer and who apply for a permit under this
48 section for the limited sale of alcohol, wine or beer produced by the applicant.”

49

50 Section 4.

51

52 Chapter 138 of the general laws is hereby amended by inserting after section 15E the following
53 new section:-

54

55 “Section 15F. Notwithstanding any other provision of Chapter 138, in any city or town wherein
56 the granting of licenses to sell wines, malt beverages or alcoholic beverages is authorized under
57 this chapter, the local licensing authority may issue to any person currently licensed in this or
58 any other state as a wine producer, beer producer, or distilled spirits producer a special license
59 for the sale of wine, beer or spirits produced by the person so licensed in sealed containers for
60 off-premise consumption at State Fair, County Fair, and recognized farmers’ market operated on
61 a not-for-profit basis to individuals that are at least 21 years of age. The special permit shall
62 stipulate the premises and times covered as well as any other restrictions imposed by the local
63 authority. A licensee under this section may provide, without charge, samples of wine, beer, or
64 spirits to prospective customers at the State Fair, county Fair, and recognized farmer’s market;
65 provided , however, that no single serving of wine shall exceed one ounce, no single serving of
66 malt beverages shall exceed two ounces and no single service of liqueurs, cordial or spirits shall
67 exceed ¼ of an ounce. All samples of wine, beer or spirits shall be served by an agent,
68 representative, or solicitor of the person currently licensed in this or any other state to individuals
69 that are at least 21 years of age and all samples must be consumed in the presence of the agent,
70 representative, or solicitor from the farm winery. The local licensing authority may charge a fee
71 for each such permit but such charge or fee shall not exceed fifty dollars. The commission may
72 promulgate rules and regulations necessary to effectuate its alcohol oversight, licensing and
73 enforcement purposes under this chapter. “

74

75

76

77 Section 5.

78

79 Section 17 of Chapter 138 is hereby amended by adding at the end thereof the following:-

80 “Notwithstanding anything contained in this section to the contrary, a city or town may grant
81 licenses under sections twelve and fifteen to any applicant who is licensed in this or any other
82 state as a wine producer, beer producer or distilled spirits producer. Any license issued by a city
83 or town under section twelve or fifteen to a wine producer, beer producer or distilled spirits
84 producer shall not be counted as a license for purposes of determining the number of licenses
85 allowed to be issued by a city or town under the provisions of this Section 17. Any license

86 granted pursuant to this paragraph shall be nontransferable to any other person, corporation or
87 organization and shall be clearly marked nontransferable on the face of the license and shall be
88 limited to the sale of wine, beer or spirits produced by the person licensed in this or any other
89 state as a wine producer, beer producer or distilled spirits producer”

90 Section 6.

91

92 Section 19B(g) of Chapter 138 of the general laws is hereby amended by adding after the words
93 “(4) at wholesale to a person in any foreign country” the following:-

94

95 “(5) at retail by the bottle to consumers, for consumption off the winery premises in accordance
96 with a license issued under section 15 or 15F.

97 (6) at retail by the glass or bottle wines to be consumed on the premises pursuant to a license
98 issued by local authority pursuant to section 12.”

99

100

101 Section 7

102

103 Section 19B(h) of Chapter 138 of the general laws is hereby amended in the second sentence by
104 adding after the words “all retail sales” the following:-

105

106 “under this Section 19B”;

107

108 and the same subsection 19B(h) of Chapter 138 is further amended by adding at the end thereof
109 the following:-

110

111 “However, a winegrower may obtain additional licenses for the sale of wine to consumers at
112 additional locations off of the winery premises at such locations authorized by a license issued
113 pursuant to section 15 and 15F.”

114

115

116

117 Section 8.

118

119 Section 19C(g) of Chapter 138: (g) by adding at the end thereof after the words: “(9) at
120 wholesale to any person in any foreign country” the following:-

121

122 “(10) at retail by the bottle to consumers, for consumption off the winery premises in accordance
123 with a license issued under section 15 or 15F.

124

125 (11) at retail by the glass or bottle wines to be consumed on the premises pursuant to a license
126 issued by local authority pursuant to section 12.”

127

128

129

130 Section 9.

131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163

Section 19C(h) Chapter 138 is amended by adding at the end thereof the following:-

“However, a farmer-brewer may obtain additional licenses for the sale of malt beverages to consumers at additional locations off of the winery premises at such locations authorized by a license issued pursuant to section 15 and 15F.”

Section 10.

Section 19E(i) of Chapter 138 is hereby amended in the second sentence, after the words “All retail sales” by adding the following:
“under this Section 19E”;

And said Section 19E(i) is further amended by adding at the end thereof the following:

“However, a farmer-distiller may obtain additional licenses for the sale of spirits to consumers at additional locations off of the winery premises at such locations authorized by a license issued pursuant to section 15 and 15F.”

Section 11.

Section 19E(h) is hereby amended by adding at the end thereof after the following:

“(10) at retail by the bottle to consumers, for consumption off the winery premises in accordance with a license issued under section 15 or 15F.

(11) at retail by the glass or bottle wines to be consumed on the premises pursuant to a license issued by local authority pursuant to section 12.”