

HOUSE No. 387

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Scanlon

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 expanding the sale of products by farmer distilleries and wineries.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adam Scanlon</i>	<i>14th Bristol</i>	<i>1/10/2023</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/11/2023</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>1/26/2023</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/6/2023</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>2/9/2023</i>
<i>Erika Uyterhoeven</i>	<i>27th Middlesex</i>	<i>2/13/2023</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>2/16/2023</i>
<i>Adrienne Pusateri Ramos</i>	<i>14th Essex</i>	<i>2/18/2023</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/21/2023</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>	<i>2/24/2023</i>
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>2/27/2023</i>
<i>Shirley B. Arriaga</i>	<i>8th Hampden</i>	<i>2/28/2023</i>
<i>Rodney M. Elliott</i>	<i>16th Middlesex</i>	<i>4/24/2023</i>
<i>Priscila S. Sousa</i>	<i>6th Middlesex</i>	<i>5/15/2023</i>
<i>Michael P. Kushmerek</i>	<i>3rd Worcester</i>	<i>6/6/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>6/28/2023</i>
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>8/31/2023</i>

HOUSE No. 387

By Representative Scanlon of North Attleborough, a petition (accompanied by bill, House, No. 387) of Adam Scanlon and others relative to the sale of products by farmer distilleries and wineries. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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

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 striking out section
2 15F, as appearing in the 2020 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 15F. (a) For the purposes of this section, “agricultural event” shall only include
5 events certified by the department of agricultural resources pursuant to this section.

6 (b) Notwithstanding any other provision of this chapter to the contrary, the local licensing
7 authority of any city or town authorized to grant licenses to sell alcoholic beverages under this
8 chapter may issue to an applicant a special license to sell: (i) wine produced by or for the
9 applicant at an indoor or outdoor agricultural event if the wine is in sealed containers for off-
10 premises consumption and the applicant is authorized to operate a farmer-winery under section
11 19B; (ii) malt beverages produced by or for the applicant at an indoor or outdoor agricultural
12 event if the malt beverages are in sealed containers for off-premises consumption and the

13 applicant is authorized to operate a farmer-brewery under section 19C or a pub brewery under
14 section 19D; or (iii) distilled spirits produced by or for the applicant at an indoor or outdoor
15 agricultural event if the spirits are in sealed containers for off-premises consumption, the
16 applicant is authorized to operate a farmer-distillery under section 19E and the city or town is
17 authorized to grant licenses for the sale of all alcoholic beverages.

18 (c) The sales of alcoholic beverages under this section shall be conducted by the licensee
19 or by an agent, representative or solicitor of the licensee to customers who are not less than 21
20 years of age. A licensee under this section may provide samples of its alcoholic beverages to
21 prospective customers at an indoor or outdoor agricultural event without charge. Any such
22 sample shall be served by the licensee or by an agent, representative or solicitor of the licensee to
23 individuals who are not less than 21 years of age and shall be consumed in the presence of the
24 licensee or an agent, representative or solicitor of the licensee; provided, however, that a sample
25 of wine shall not exceed 1 ounce, a sample of malt beverage shall not exceed 2 ounces and a
26 sample of distilled spirits shall not exceed $\frac{1}{4}$ ounce; and provided further, that not more than 5
27 samples shall be served to an individual prospective customer.

28 (d) An applicant for a special license under this section shall first submit a plan to the
29 department of agricultural resources that shall demonstrate that the event is an agricultural event.
30 The plan shall include: (i) a description of the event; (ii) the date, time and location of the event;
31 (iii) a copy of the operational guidelines or rules for the event; (iv) written proof that the
32 applicant has been approved as a vendor at the event, including the name and contact information
33 of the on-site manager; and (v) a plan depicting the premises and the specific location where the
34 license shall be exercised.

35 (e) Upon review of the plan, the department may certify that the event is an agricultural
36 event; provided, however, that in making that determination, the department shall consider: (i)
37 operation as a farmers' market or agricultural fair approved or inspected by the department; (ii)
38 the frequency and regularity of the event, including dates, times and locations; (iii) the number of
39 vendors; (iv) the terms of vendor agreements; (v) the presence of an on-site manager; (vi) the
40 training of the on-site manager; (vii) any operational guidelines or rules, which shall include
41 vendor eligibility and produce source; (viii) the focus of the event on local agricultural products
42 grown or produced within the market area; (ix) the types of shows or exhibits, including those
43 described in clause (f) of section 2 of chapter 128; and (x) the event's sponsorship or operation
44 by an agricultural or horticultural society organized under the laws of the commonwealth or by a
45 local grange organization or association that has a primary purpose of promoting agriculture and
46 its allied industries. The department may promulgate rules and regulations necessary for the
47 operation, oversight, approval and inspection of agricultural events under this section.

48 (f) In addition to its application, an applicant for a special license under this section shall
49 file with the local licensing authority proof of certification from the department of agricultural
50 resources that the event is an agricultural event. A special license shall designate the specific
51 premises and the dates and times covered; provided, however, that a special license may be
52 granted for an indoor or outdoor agricultural event that takes place on multiple dates or times
53 during a single calendar year; provided further, that a special license shall not be granted for an
54 agricultural event if it will not take place within 1 calendar year.

55 (g) A special license under this section shall be conspicuously displayed at the licensed
56 premises. The licensing authority shall submit a copy of a special license to the commission not
57 less than 7 days before the date the agricultural event is first scheduled to begin. The local

58 licensing authority may charge a fee for each special license granted; provided, however, that the
59 fee shall not exceed \$50. A special license granted under this section shall not be transferable to
60 any other person, corporation or organization and shall be clearly marked “nontransferable” on
61 its face.

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

70 (i) The commission may promulgate rules and regulations as it deems appropriate to
71 implement this section.

72 SECTION 2. Section 21 of chapter 138 of the General Laws, as so appearing, is hereby
73 amended by striking out, in lines 20 and 21, the words “six per cent of alcohol by weight” and
74 inserting in place thereof the following words:- 8½ per cent of alcohol by volume.; and

75 SECTION 3. Said section 21 of said chapter 138, as so appearing, is hereby further
76 amended by striking out, in line 25, the word “six” and inserting in place thereof the following
77 figure:- 8 ½.

78 SECTION 4. Chapter 138 of the General Laws is hereby amended by inserting after
79 section 33B the following 2 sections:-

80 Section 33C. In a city or town that accepts this section in the manner provided in section
81 4 of chapter 4, an establishment holding a license to sell alcohol to be drunk on the premises
82 shall be permitted to sell alcoholic beverages or alcohol at a discounted price, in a manner as
83 approved by the city or town.

84 Section 33D. In a city or town that accepts this section in the manner provided in section
85 4 of chapter 4, a common victualler duly licensed under chapter 140 or any person duly licensed
86 under section 12 to sell all alcoholic beverages or only wines and malt beverages may discount
87 any alcoholic beverages during a specified time period subject to ordinance, by-law, or other
88 limitations as provided by the city and town and; provided, however, that: (i) the prices of
89 alcoholic beverages are not changed during the time period during which they are discounted; (ii)
90 alcoholic beverages are not discounted between the hours of 10 p.m. and the licensed
91 establishment's closing hour; and (iii) notice of the discount of the alcoholic beverages during
92 the time period specified is posted on the licensed premises and on the licensee's publicly
93 available website not less than 3 days prior to the specified time. Authorized persons may
94 advertise events permitted under this statute consistent with local approval.

95 SECTION 124E. The alcoholic beverages control commission shall convene a 9 member
96 advisory group to assist municipalities and provide guidance on the implementation of sections
97 33C and 33D of chapter 138 of the General Laws. The advisory panel shall consist of diverse
98 membership with expertise in public safety, alcohol licensing, alcohol distribution, small
99 businesses, promotion of safe driving practices and restaurant operations.