

SENATE No. 175

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to licenses for the sale of alcoholic beverages..

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, as appearing in the 2006 official edition,
2 is hereby amended by striking section 17 and inserting in place thereof the following section:-

3 Section 17. After June 30, 2009, the local licensing authority in a city or town shall be
4 authorized to grant additional licenses for the sale of alcoholic beverages or wines and malt
5 beverages to be drunk on the premises, subject to the provisions of section 12 of chapter 138,
6 local zoning bylaws and a vote of the governing body of the municipality.

7 SECTION 2. Section 17A of said chapter 138 is hereby repealed.

8 SECTION 3. Section 17B of said chapter 138 is hereby repealed.

9 SECTION 4. Section 17C of said chapter 138 is hereby repealed.

10 SECTION 5. Said chapter 138, as so appearing, is hereby amended by striking section 12
11 and inserting in place thereof the following section:-

12 Section 12: A common victualler duly licensed under chapter 140 to conduct a
13 restaurant, an innholder duly licensed under said chapter to conduct a hotel, a pub brewer and a
14 keeper of a tavern as defined by this chapter, in any city or town wherein the granting of licenses
15 under this section to sell all alcoholic beverages or only wines and malt beverages, as the case
16 may be, is authorized by this chapter, subject however, in the case of a tavern, to the provisions
17 of section 11A, may be licensed by the local licensing authorities, to sell to travelers, strangers
18 and other patrons and customers not under twenty-one years of age, such beverages to be served
19 and drunk, in case of a hotel or restaurant licensee, only in the dining room or dining rooms and
20 in such other public rooms or areas of a hotel as the local licensing authorities may deem
21 reasonable and proper, and approve in writing; and provided further, that the limitations relative
22 to service and consumption in a restaurant or hotel only in the dining rooms and such other
23 public rooms or areas deemed reasonable and proper by the local licensing authority shall not be
24 deemed to preclude the restaurant or hotel from allowing a patron to retain and take off the
25 premises only so much as may remain of a bottled wine purchased by the patron in conjunction
26 with a meal and not totally consumed by the patron during such meal; provided further, that the
27 bottle shall be resealed in accordance with regulations promulgated by the commission;
28 provided, that no tavern license shall be granted to the holder of a hotel license hereunder. Such
29 sales may also be made, by an innholder licensed hereunder, to registered guests occupying
30 private rooms in his hotel, and in the dining room or dining rooms and in such other public
31 rooms or areas of buildings on the same premises as the hotel and operated as appurtenant and
32 contiguous to and in conjunction with such hotel, and to registered guests occupying private
33 rooms in such buildings and in the case of condominium accommodations that are located
34 appurtenant and contiguous to and also upon the same premises as a hotel, sales may be made by

35 the hotel licensee as the local licensing authorities may deem reasonable and proper, and approve
36 in writing. Such sales may be made by a restaurant licensee at such stands or locations in a sports
37 arena, stadium, ball park, race track, auditorium or in any one building at an airport as the local
38 licensing authority may deem reasonable and proper, and approve in writing. Upon an
39 application for a restaurant license, the local licensing authorities may in their discretion grant
40 such a license authorizing the sale of alcoholic beverages on all days of the week or one
41 authorizing such sale on secular days only, and the decision of such authorities as to which of the
42 two types may be granted upon any particular application shall be final. During such time as the
43 sale of such alcoholic beverages is authorized in any city or town under this chapter, the
44 authority to grant innholders' and common victuallers' licenses therein under chapter one
45 hundred and forty shall be vested in the local licensing authorities; provided, that if a person
46 applies for the renewal of both a common victualler's license or an innholder's license under said
47 chapter one hundred and forty and a hotel or a restaurant license, as the case may be, under this
48 section and the local licensing authorities refuse to grant said common victualler's or innholder's
49 license or fail to act on the applications therefor within a period of thirty days, such applicant
50 may appeal therefrom to the commission in the same manner as provided in section 67 and all
51 the provisions of said section relative to licenses authorized to be issued by local licensing
52 authorities under this chapter shall apply in the case of such common victualler's license or
53 innholder's license.

54 If a license granted under this section to a person holding a license as an innholder or
55 common victualler is suspended or revoked for any particular cause, no action shall be taken on
56 account thereof by such authorities with respect to such innholder's or common victualler's
57 license prior to the expiration of the period provided for an appeal under section sixty-seven in

58 case no such appeal is taken, or prior to the disposition of any such appeal so taken, nor
59 thereafter, except for further cause, in case such disposition is in favor of the appellant. Any club
60 in any city or town wherein the granting of licenses to sell alcoholic beverages, or only wines
61 and malt beverages, as the case may be, is authorized under this chapter may be licensed by the
62 local licensing authorities, , to sell such beverages to its members only, and also, subject to
63 regulations made by the local licensing authorities, to guests introduced by members, and to no
64 others.

65 The local licensing authorities of any city or town wherein the granting of licenses under
66 this section to sell all alcoholic beverages or only wines and malt beverages, as the case may be,
67 is authorized by this chapter, may issue a license to any corporation the members of which are
68 war veterans and which owns, hires or leases in such city or town a building, or space in a
69 building, for the use and accommodation of a post of any war veterans' organization
70 incorporated by the Congress of the United States, to sell such beverages to the members of such
71 post only, and also, subject to regulations made by the local licensing authorities, to guests
72 introduced by such members and to no others.

73 The local licensing authorities may determine in the first instance, when originally
74 issuing and upon each annual renewal of licenses under this section, the amount of the license
75 fee, for a tavern license or for any other license under this section for the sale of all alcoholic
76 beverages, or for any other license under this section for the sale of wines and malt beverages,
77 and provided that nothing herein shall prevent such authorities from establishing license fees
78 differing in amounts within the limitations aforesaid for restaurant licenses authorizing such sale
79 on secular days only. If different license fees are so established the fee for licenses authorizing
80 the sale of alcoholic beverages on all days of the week shall not be more than twenty-five per

81 cent higher than the fee for licensing such sale on secular days only. Before issuing a license to
82 any applicant herefor under this section, or before a renewal of such license, the local licensing
83 authority shall cause an examination to be made of the premises of the applicant to determine
84 that such premises comply in all respects with the appropriate definition of section one and that
85 the applicant is not less than twenty-one years of age and a person of good character in the city
86 or town in which he seeks a license hereunder. No license shall be issued to any applicant who
87 has been convicted of a violation of a federal or state narcotic drugs law.

88 The local licensing authorities may accept the surrender of a license issued under this
89 section and may issue in place thereof to the same licensee any other form of license authorized
90 under this section, and may allow as a credit on the fee for the new license the license fee paid
91 for the license surrendered but no refund shall be authorized. Different licenses issued as
92 aforesaid for any portion of the same license year to the same licensee shall count as one license
93 for the purposes of section seventeen.

94 The hours during which sales of such alcoholic beverages may be made by any licensee
95 as aforesaid shall be fixed by the local licensing authorities either generally or specially for each
96 licensee; provided, however, that no such sale shall be made on any secular day between the
97 hours of two and eight o'clock antemeridian and that, except as provided in section thirty-three,
98 no such licensee shall be barred from making such sales on any such day after eleven o'clock
99 antemeridian and before eleven o'clock postmeridian, and no tavern shall be kept open on any
100 such day between one o'clock antemeridian and eight o'clock antemeridian; provided, further,
101 that any such licensee or his manager shall not be prohibited from being on the licensed premises
102 at any time; provided, further, that the employees, contractors or subcontractors shall not be
103 prohibited from being upon such premises at any time for the purpose of cleaning, making

104 renovations, making emergency repairs to or providing security for, such premises or preparing
105 food for the day's business or opening or closing the business in an orderly manner. The
106 licensing authority shall not decrease the hours during which sales of such alcohol beverages
107 may be made by a licensee until after a public hearing concerning the public need for such
108 decrease; provided, however, that a licensee affected by any such change shall be given 2 weeks
109 notice of the public hearing; provided further, that a local licensing authority, subject to the
110 approval of the commission, may grant a license notwithstanding section 17 to sell wine for
111 consumption on the winery premises to a winegrower authorized to operate a farmer-winery
112 under section 19B, to sell malt beverages for consumption on the brewery premises to a farmer-
113 brewer authorized to operate a farmer-brewer under section 19C and to sell spirits for
114 consumption on the distillery premises to a farmer-distiller authorized to operate a farmer-
115 distillery under section 19E; and provided further, that such licensees may sell for on premises
116 consumption wines, malt beverages and spirits produced by the winery, brewery or distillery or
117 produced for the winery, brewery or distillery and sold under the winery, brewery or distillery
118 brand name.

119 No license issued under this section shall be subject to any condition or requirement
120 varying the occupancy of the licensed premises as certified by any person or state or local agency
121 charged with the administration or enforcement of the state building code or any of its rules or
122 regulations.

123 No person, firm, corporation, association or other combination of persons, directly or
124 indirectly, or through any agent, employee, stockholder, officer or other person, or any
125 subsidiary whatsoever, licensed under the provisions of sections eighteen or nineteen shall be
126 granted a license under this section.

127 In cities and towns which vote to authorize under section eleven the granting of licenses
128 for the sale of all alcoholic beverages, specific licenses may nevertheless be granted under this
129 section for the sale of wines or malt beverages only, or both. The licensing authorities may refuse
130 to grant licenses under this section in certain geographical areas of their respective cities or
131 towns, where the character of the neighborhood may warrant such refusal.

132 All malt beverages sold by a licensee under this section containing not more than three
133 and two tenths per cent of alcohol by weight shall be expressly sold as such.

134 No malt beverage shall be sold on draught from a tap, faucet or other draughting device,
135 unless there shall plainly appear on or attached to such device, in legible letters, the brand or
136 trade name of the malt beverage so sold therefrom.

137 In any city or town wherein the granting of licenses under this section to sell alcoholic
138 beverages or wines and malt beverages is authorized, a person may be granted a general on-
139 premise license by the local licensing authorities authorizing him to sell alcoholic beverages
140 without food to patrons and customers subject to all other relevant provisions of this chapter,
141 provided that such beverages shall be sold and drunk in such rooms as the licensing authorities
142 may approve in writing. The annual license fee for such general on-premise license shall be
143 determined by the local licensing authority. For the purposes of section eleven an affirmative
144 vote on subdivision A or B shall be considered an authorization for the granting of general on-
145 premise licenses in a city or town.

146 A common victualler who holds a license pursuant to this section may provide on
147 premises sample wine or malt beverage tasting; provided however, that such licensee shall not
148 solicit orders for wine or malt for off premises consumption; and provided further, that any such

149 wine tasting shall be limited to one ounce per serving and any such malt beverage tasting shall be
150 limited to two ounces per serving and food shall be served in conjunction with any such wine or
151 malt beverage tasting.

152 In any city or town which votes to accept the provisions of this paragraph, a common
153 victualler, who holds a license under this section to sell wines and malt beverages may, upon
154 written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all
155 other licensing provisions of this chapter.

156 A common victualler who holds a license for the sale of all alcoholic beverages or holds a
157 license for the sale of wines and malt beverages and who also holds pursuant to this section
158 written approval to sell liqueurs and cordials pursuant to his license may provide on-premises
159 sample liqueurs and cordials tasting; provided however, that a licensee shall not solicit orders for
160 liqueurs and cordials for off-premises consumption; and provided, further, that any such liqueurs
161 and cordials tasting shall be limited to 1/4 of an ounce per serving and food shall be served in
162 conjunction with any liqueurs and cordials tasting.

163 A common victualler who holds a license for the sale of all alcoholic beverages may
164 provide on premises sample alcoholic beverages tasting; provided, however, that a licensee shall
165 not solicit orders for alcoholic beverages for off-premises consumption; and provided further,
166 that any tasting of alcoholic beverages, other than wines and malt beverages, shall be limited to
167 1/4 of an ounce per serving and food shall be served in conjunction with any alcoholic beverages
168 tasting.