

SENATE No. 400

The Commonwealth of Massachusetts

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

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

6 SECTION 2. Section 12 of Chapter 138 of the general laws is hereby amended by adding
7 at the end thereof the following:-

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

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

20 SECTION 3. Section 15 of Chapter 138 is hereby amended by adding at the end of the
21 first sentence after the words “hold a license pursuant to this section and sections 18, 18A, 19,
22 19B, and 19C” the following:-

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

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

34 “and nothing shall prohibit the local licensing authority from establishing reduced fees
35 for limited licenses issued to applicants who are licensed in this or any other state as a wine

36 producer, beer producer or distilled spirits producer and who apply for a permit under this
37 section for the limited sale of alcohol, wine or beer produced by the applicant.”

38 SECTION 4. Chapter 138 of the general laws is hereby amended by inserting after
39 section 15E the following new section:-

40 “Section 15F. Notwithstanding any other provision of Chapter 138, in any city or town
41 wherein the granting of licenses to sell wines, malt beverages or alcoholic beverages is
42 authorized under this chapter, the local licensing authority may issue to any person currently
43 licensed in this or any other state as a wine producer, beer producer, or distilled spirits producer a
44 special license for the sale of wine, beer or spirits produced by the person so licensed in sealed
45 containers for off-premise consumption at State Fair, County Fair, and recognized farmers’
46 market operated on a not-for-profit basis to individuals that are at least 21 years of age. The
47 special permit shall stipulate the premises and times covered as well as any other restrictions
48 imposed by the local authority. A licensee under this section may provide, without charge,
49 samples of wine, beer, or spirits to prospective customers at the State Fair, county Fair, and
50 recognized farmer’s market; provided , however, that no single serving of wine shall exceed one
51 ounce, no single serving of malt beverages shall exceed two ounces and no single service of
52 liqueurs, cordial or spirits shall exceed $\frac{1}{4}$ of an ounce. All samples of wine, beer or spirits shall
53 be served by an agent, representative, or solicitor of the person currently licensed in this or any
54 other state to individuals that are at least 21 years of age and all samples must be consumed in
55 the presence of the agent, representative, or solicitor from the farm winery. The local licensing
56 authority may charge a fee for each such permit but such charge or fee shall not exceed fifty
57 dollars. The commission may promulgate rules and regulations necessary to effectuate its
58 alcohol oversight, licensing and enforcement purposes under this chapter. “

59 SECTION 5. Section 17 of Chapter 138 is hereby amended by adding at the end thereof
60 the following:-

61 “Notwithstanding anything contained in this section to the contrary, a city or town may
62 grant licenses under sections twelve and fifteen to any applicant who is licensed in this or any
63 other state as a wine producer, beer producer or distilled spirits producer. Any license issued by
64 a city or town under section twelve or fifteen to a wine producer, beer producer or distilled spirits
65 producer shall not be counted as a license for purposes of determining the number of licenses
66 allowed to be issued by a city or town under the provisions of this Section 17. Any license
67 granted pursuant to this paragraph shall be nontransferable to any other person, corporation or
68 organization and shall be clearly marked nontransferable on the face of the license and shall be
69 limited to the sale of wine, beer or spirits produced by the person licensed in this or any other
70 state as a wine producer, beer producer or distilled spirits producer”

71 SECTION 6. Section 19B(g) of Chapter 138 of the general laws is hereby amended by
72 adding after the words “(4) at wholesale to a person in any foreign country” the following:-

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

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

77 SECTION 7. Section 19B(h) of Chapter 138 of the general laws is hereby amended in the
78 second sentence by adding after the words “all retail sales” the following:-

79 “under this Section 19B”;

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

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

85 SECTION 8. Section 19C(g) of Chapter 138: (g) by adding at the end thereof after the
86 words: “(9) at wholesale to any person in any foreign country” the following:-

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

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

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

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

96 SECTION 10. Section 19E(i) of Chapter 138 is hereby amended in the second sentence,
97 after the words “All retail sales” by adding the following:

98 “under this Section 19E”;

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

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

103 SECTION 11. Section 19E(h) is hereby amended by adding at the end thereof after the
104 following:

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

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