

HOUSE No. 3686

The Commonwealth of Massachusetts

PRESENTED BY:

Claire D. Cronin

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 relative to establishments in the city of Brockton licensed to sell alcohol pursuant to G.L. CH 138.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	

HOUSE No. 3686

By Ms. Cronin of Easton, a petition (accompanied by bill, House, No. 3686) of Claire D. Cronin (with the approval of the mayor and city council) that the city of Brockton be authorized to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises. Consumer Protection and Professional Licensure. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to establishments in the city of Brockton licensed to sell alcohol pursuant to G.L. CH 138.

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. Notwithstanding chapter 138 any other general or special law, rule or
2 regulation to the contrary, the chief of police may determine that a serious risk or threat to the
3 public's safety or the public interest exist in an establishment that holds a license issued pursuant
4 to MGL c. 138, § 12 that permits the sale of alcoholic beverages for consumption on the
5 premises. The serious risk or threat to the public's safety or the public interest may be an event or
6 series of events that constitutes a danger to the public.

7 The chief of police shall set forth in writing the specific facts or circumstances for his
8 determination that a serious risk or threat to the public's safety or the public interest exist. Upon
9 making this determination the chief may take any action that in his determination will protect the
10 public's safety, including but not limited to:

- 11 a) Immediate closing of the licensed establishment;
- 12 b) Suspension of the any license granted the license holder;
- 13 c) Reduction of the hours of operation;
- 14 d) Any other action necessary to preserve public safety;

15 The license holder shall be immediately notified in writing of the actions of the chief, and
16 said notice shall include the specific reason for the action and the notice of appeal procedure.

17 The decision and appeals procedure shall also be posted at the licensed premises which posting
18 shall be deemed as actual notice of the chief's action.

19 The chief of police shall notify the mayor, the city clerk, the license commission and the
20 city solicitor of any action taken pursuant to this act. The license holder shall have 5 business
21 days of the posting of the notice from the chief of police to appeal the decision. The chief of
22 police shall prepare an appeals form that will be available at the police station, city clerks' office,
23 the office of the license commission and the law department.

24 Within 5 business days of the receipt of an appeal, the chief of police or his designee
25 shall conduct a hearing to determine if the chief's action shall be sustained, rescinded or
26 modified. By mutual agreement a hearing may be reschedule. The evidence supporting the Chief
27 of police's decision shall be presented and the license holder appealing the decision shall have
28 the opportunity to present evidence to rebut the Chief of Police's decision. Both sides shall have
29 the opportunity to call witnesses to testify. The license holder may be represented by counsel.

30 Within 5 business days the chief of police shall render a decision in writing specific
31 findings of fact on which his decision is based.

32 The chief of police may:

33 a) Sustain the original decision

34 b) Rescind the original decision

35 c) Modify the original decision, including but not limited to adjustment of hours, adding
36 additional conditions to the license, and ordering detail police officers on the premise

37 The chief of police shall notify the license holder, the mayor, the city clerk, the license
38 commission and the city solicitor of his decision.

39 Any license holder aggrieved by the decision of the chief of the police may file a
40 complaint within 30 days pursuant to this act to the Superior Court of Plymouth County.

41 Within one year of the decision, the license holder may petition the License Commission
42 for a new license. The License Commission may issue any license within their authority to grant
43 said license; provided, further that no license shall issue unless approved by the chief of police.

44 In the case of a revocation of a license or suspension of more than 30 days, no other
45 license shall be granted to the license holder or to the premises affected by the decision for one
46 year after the decision. Upon the expiration of one year of the chief of police's original action,
47 the license holder may petition the License Commission for a new license. The License
48 Commission may issue any license within their authority to grant said license; provided, further
49 that no license shall issue unless approved by the chief of police.

50 For purposes of this act, in case were the chief of police is unavailable or unable to
51 perform his duties under this act, the Mayor may designate a police captain to act in his place.

52 SECTION 2. Nothing in this act shall prohibit the Licenses Commission from exercising
53 its authority pursuant to Chapter 138 for any other license holders or petitioners in the city of
54 Brockton

55 SECTION 3. This act shall take effect upon its passage.