

SENATE No. 2513

The Commonwealth of Massachusetts

—
In the One Hundred and Eighty-Ninth General Court
(2015-2016)
—

SENATE, Thursday, December 8, 2016

The committee on Ways and Means, to whom was referred the Senate Bill authorizing the sale of farmer-distiller products at farmers’ markets (Senate, No. 138),-- reports, recommending that the same ought to pass with an amendment substituting a new draft entitled “An Act relative to the sale of alcoholic beverages at farmers’ markets” (Senate, No. 2513).

For the committee,
Karen E. Spilka

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An Act relative to the sale of alcoholic beverages at farmers' markets.

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 2014 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 15F. Notwithstanding any other provision of this chapter, in any city or town
5 wherein the granting of licenses to sell alcoholic beverages is authorized under this chapter, the
6 local licensing authority may issue to an applicant a special license: (i) for the sale of wine
7 produced by or for the applicant, in sealed containers for off-premises consumption, at an indoor
8 or outdoor agricultural event if the applicant is authorized to operate a farmer-winery under
9 section 19B; (ii) for the sale of malt beverages produced by or for the applicant, in sealed
10 containers for off-premises consumption, at an indoor or outdoor agricultural event if the
11 applicant is authorized to operate a farmer-brewery under section 19C; or (iii) for the sale of
12 distilled spirits produced by or for the applicant, in sealed containers for off-premises
13 consumption, at an indoor or outdoor agricultural event, if the applicant is authorized to operate a

14 farmer-distillery under section 19E and if the city or town is authorized to grant licenses for the
15 sale of all alcoholic beverages.

16 All sales of alcoholic beverages under this section shall be conducted by the licensee or
17 by an agent, representative or solicitor of the licensee to customers who are at least 21 years of
18 age. A licensee under this section may provide, without charge, samples of its alcoholic
19 beverages to prospective customers at an indoor or outdoor agricultural event. All samples shall
20 be served by the licensee or by an agent, representative or solicitor of the licensee to individuals
21 who are at least 21 years of age and all samples shall be consumed in the presence of the licensee
22 or in the presence of an agent, representative or solicitor of the licensee; provided, however, that
23 no sample of wine shall exceed 1 ounce, no sample of malt beverages shall exceed 2 ounces and
24 no sample of distilled spirits shall exceed 1/4 ounce; and provided further, that not more than 5
25 samples shall be served to an individual prospective customer. For the purposes of this section,
26 “agricultural event” shall be limited to those events certified by the department of agricultural
27 resources as set forth in this section.

28 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 a description of the event, the date, time and location of the event, a copy
31 of the operational guidelines or rules for the event, written proof that the prospective licensee has
32 been approved as a vendor at the event, including the name and contact information of the on-
33 site manager, and a plan depicting the premises and the specific location where the license shall
34 be exercised.

35 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 subsection (f) of section 2 of chapter 128; and (x) the event's sponsorship or
44 operation by an agricultural or horticultural society organized under the laws of the
45 commonwealth or by a local grange organization or association which has a primary purpose of
46 promoting agriculture and its allied industries. The department of agricultural resources may
47 promulgate rules and regulations necessary for the operation, oversight, approval and inspection
48 of agricultural events under this section.

49 An applicant for a special license under this section shall file with the local licensing
50 authority along with its application proof of certification from the department of agricultural
51 resources that the event is an agricultural event. A special license under this section shall
52 designate the specific premises and the dates and times covered. A special license may be
53 granted for an indoor or outdoor agricultural event which takes place on multiple dates or times
54 during a single calendar year but no special license shall be granted for an agricultural event that
55 shall not take place within 1 calendar year. The special license shall be conspicuously displayed
56 at the licensed premises. A copy of a special license granted by the local licensing authority shall
57 be submitted by the authority to the commission at least 7 days before the date the agricultural

58 event is first scheduled to begin. The local licensing authority may charge a fee for each special
59 license granted but such fee shall not exceed \$50. A special license granted under this section
60 shall be nontransferable to any other person, corporation or organization and shall be clearly
61 marked “nontransferable” on its face.

62 The commission may promulgate rules and regulations as it deems appropriate to
63 effectuate this section.

64 A special license under this section may be granted by the local licensing authorities for a
65 portion of premises that are licensed under section 12; provided, however, that: (i) the holder of
66 the special license shall document the legal basis for use of the section 12 licensed premises; (ii)
67 the area in which the special license is to be approved shall be physically delineated from the
68 area remaining under the control of the section 12 license holder; (iii) the holder of the special
69 license shall be solely liable for all activities that arise out of the special license; and (iv) the
70 holder of the special license shall not pay any consideration, directly or indirectly, to the section
71 12 licensee for the access to or use of the section 12 licensee's premises.