

# HOUSE . . . . . No. 176

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Joseph D. McKenna***

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*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 returning liquor license control to municipalities.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/18/2017</i>
<i>Donald R. Berthiaume, Jr.</i>	<i>5th Worcester</i>	<i>2/3/2017</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>	<i>1/31/2017</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>2/2/2017</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>2/2/2017</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>	<i>2/3/2017</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>	<i>1/26/2017</i>
<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>	<i>2/1/2017</i>

# HOUSE . . . . . No. 176

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By Mr. McKenna of Webster, a petition (accompanied by bill, House, No. 176) of Joseph D. McKenna and others relative to returning liquor license control to cities and towns. Consumer Protection and Professional Licensure.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court  
(2017-2018)  
\_\_\_\_\_

An Act returning liquor license control to municipalities.

*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 12 of chapter 138 of the General Laws, as so appearing, is hereby  
2 amended by striking out, in lines 79 to 81, inclusive, the words “, notwithstanding any limitation  
3 on the number of licenses the city or town is authorized to grant in section 17,” and inserting in  
4 place thereof the following words:- pursuant to the municipal plan as required by section 17

5  
6           SECTION 2. Said section 12 of said chapter 138, as so appearing, is hereby further  
7 amended by striking out, in lines 107 to 109, inclusive, the words “and irrespective of any  
8 limitation of number of licenses contained in section seventeen”.

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10          SECTION 3. The sixth paragraph of said section 12 of said chapter 138, as so appearing,  
11 is hereby amended by striking out the second sentence.

SECTION 4. Said section 12 of said chapter 138, as so appearing, is hereby further amended by inserting after the word “antemeridian”, in lines 150 and 155, each time it appears, the following words:- , except in a city or town that is serviced by the Massachusetts Bay Transportation Authority’s late-night service as authorized by chapter 161A if the local governing body of such city or town accepts this provision.

SECTION 5. Said section 12 of said chapter 138, as so appearing, is hereby further amended by adding the following 4 paragraphs:-

All licenses issued under this section pursuant to a new license application that is filed after July 1, 2016 shall be non-transferable and a licensing authority shall not approve the transfer of such license.

If the license granted under this section is cancelled, revoked or no longer in use by the license holder, the license shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto to the licensing authority.

If a license holder closes or terminates the license holder’s business, or sells or transfers the license holder’s business, the license holder shall return the license physically, with all of the legal rights, privileges and restrictions pertaining thereto to the licensing authority. The licensing authority may then in its discretion grant a license to a qualified new applicant at a different location according to the standard for a new license.

A license may be re-issued by the licensing authority at the same location only if an applicant for the license files with the local licensing authority a letter from the department of

revenue and any applicable government agency indicating that the license is in good standing with the department and agency and that all applicable taxes, payments, assessments and contributions for unemployment and health insurance have been paid. If a license is granted under this section then cancelled, revoked or no longer in use, and then re-issued to a new applicant at the same location and the prior license holder at that location was reported as delinquent as specified in section 25, the name of the new license applicant shall appear in the place and stead of the former license holder, as of the date of the new license being issued, unless the alcoholic beverages control commission otherwise orders in writing, for good cause, after a hearing with notice to all parties.

SECTION 6. The first paragraph of section 14 of said chapter 138, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Special licenses for the sale of all alcoholic beverages or wine and malt beverages only, or any of them, may be issued, as determined by the municipality, by the local licensing authorities to the responsible manager of any indoor or outdoor activity or enterprise or to the responsible manager of any nonprofit organization conducting any indoor or outdoor activity or enterprise.

SECTION 7. Section 16A of said chapter 138, as so appearing, is hereby amended by striking out, in line 12, the word “so” and inserting in place thereof the following words:- as determined by a municipality to be.

SECTION 8. Said section 16A of said chapter 138, as so appearing, is hereby further amended by striking out, in lines 15 and 16, the words “, to the extent that the same are issuable under section seventeen”.

SECTION 9. Said section 16A of said chapter 138, as so appearing, is hereby further amended by striking out, in line 19, the words “for the purposes of section seventeen”.

SECTION 10. Section 17 of said chapter 138, as so appearing, is hereby amended by striking out the introductory paragraph and the first 6 paragraphs and inserting in place thereof the following 3 paragraphs:-

Section 17. A city or town shall determine the number of all alcoholic beverage or wines and malt beverage licenses to be issued by its local licensing authority under sections 12, 14 and 15F, including the number of seasonal licenses; provided, that for licenses issued under section 15, cities and towns may grant 1 such license for each population unit of 5,000 or any additional fraction thereof but may, regardless of population, grant at least 2 licenses under section 15.

A city or town that seeks to grant additional licenses on or after January 1, 2018 shall adopt a plan that is approved by the mayor, city council or board of selectmen. The plan shall determine the process for granting additional licenses; provided, however, that: (i) at least 1 public hearing regarding the plan shall be conducted by the city council, board of selectmen or

governing body of the city or town; and (ii) the city or town shall notify the alcoholic beverages control commission of the public hearing.

The governing body of each city or town shall hold a public hearing regarding a license application within 30 days of the date of the license application.

SECTION 11. Sections 17A to 17C, inclusive, of said chapter 138, as so appearing, are hereby repealed.

SECTION 12. Section 29 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 22 to 24, inclusive, the words “; but a license issued to a registered pharmacist under said section shall be included in computing the number of licenses that may be granted in any city or town as provided in section seventeen”.

SECTION 13. Sections 3, 6, and 10 of chapter 193 of the acts of 2011 are hereby repealed.

SECTION 14. On or after January 1, 2018, the number of licenses then authorized under section 17 of chapter 138 of the General Laws shall continue unless changed by the governing body of a city or town under said section 17 of said chapter 138