

HOUSE No. 3524

The Commonwealth of Massachusetts

PRESENTED BY:

John J. Mahoney

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 premium cigar retailers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>John J. Mahoney</i>	<i>13th Worcester</i>	<i>1/20/2017</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/17/2018</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/17/2018</i>

HOUSE No. 3524

By Mr. Mahoney of Worcester, a petition (accompanied by bill, House, No. 3524) of John J. Mahoney, Daniel M. Donahue and Mary S. Keefe relative to excise on cigars and smoking tobacco. Revenue.

The Commonwealth of Massachusetts

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

An Act relative to premium cigar retailers.

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. The first paragraph of section 67 of Chapter 62C of the General Laws, as
2 appearing in the 2014 Official Edition, is hereby amended by adding the following sentence:-
3 Each person who desires to obtain a license as a retail tobacconist pursuant to section 67E shall
4 file with the commissioner an application in the form as the commissioner prescribes, giving
5 information as the commissioner requires.

6 SECTION 2. Said chapter 62C is hereby further amended by inserting after section 67D
7 the following section:-

8 Section 67E. (a) As used in this section the following words shall, unless the context
9 clearly requires otherwise, have the following meanings:-

10 “On-site humidor”, a publically accessible humidity controlled space for the storage of
11 tobacco, including a: (i) built-in humidor; (ii) cabinet-style humidor; or (iii) walk-in humidor.

12 “Retail tobacconist”, a cigar retailer, as defined in section 7B of chapter 64C, who is
13 licensed pursuant to this section.

14 “Tobacco related products”, a product related to the storage or use of a tobacco product
15 including: (i) a humidor; (ii) a lighter; (iii) a cutter; (iv) a cigar carrying case; (v) a tobacco pipe;
16 (vi) a tobacco pipe accessory; and (vii) another tobacco use accessory; provided, however, that
17 tobacco related products shall not include: (i) a glass pipe; (ii) a vaporizer; and (iii) an electronic
18 smoking device, as defined in 940 CMR 21.00.

19 (b) The commissioner may grant a retail tobacconist license to an applicant pursuant to
20 section 67.

21 (c) A retail tobacconist shall pay the excise on cigars and smoking tobacco that the retail
22 tobacconist (i) imports or causes to be imported into the commonwealth or (ii) manufactures in
23 the commonwealth. A retail tobacconist authorized by the commissioner to make returns and
24 pay the excise on cigars or smoking tobacco sold, shipped or delivered by the retail tobacconist
25 to any person in the commonwealth shall collect and pay the excise on all cigars and smoking
26 tobacco sold, shipped or delivered.

27 (d) A retail tobacconist who imports, or causes to be imported, into the commonwealth
28 cigars or smoking tobacco for sale or who manufactures cigars or smoking tobacco in the
29 commonwealth, or who is authorized by the commissioner to make returns and pay the excise on
30 cigars and smoking tobacco sold, shipped or delivered by him to any person in the
31 commonwealth shall not be considered a cigar distributor, as defined in section 7B of chapter
32 64C.

33 (e) A person outside the commonwealth who ships or transports cigars or smoking
34 tobacco exclusively to retail tobacconists in the commonwealth shall not be required to be
35 licensed as a cigar distributor, in accordance with said section 7B of said chapter 64C.

36 (f) A retail tobacconist shall demonstrate on a quarterly basis that revenue generated from
37 the sale of tobacco products are not less than 80 per cent of the total combined revenue generated
38 by the sale of tobacco and tobacco related products and shall submit a declaration which states
39 the percentage of revenue generated from the sale of tobacco products to the commissioner on a
40 quarterly basis for each 3-month period that the business is in operation; provided, however, that
41 the first declaration may include a period of not more than 4 months. The declaration shall be
42 signed by the owner or business agent under the pains and penalties of perjury. The declaration
43 received by the commissioner shall be confidential and the financial information contained
44 therein shall not be disclosed to the public or any other state governmental agency or
45 commissioner, except the attorney general. If a business has not filed a required declaration
46 statement, the commissioner shall give written notice to the business that the statement is
47 delinquent and, shall suspend the license of a business that does not submit the required report
48 after 21 days of the date of notice; but the commissioner shall reinstate the suspended license
49 within 5 days after receiving the delinquent report.

50 (g) A retail tobacconist shall operate an on-site humidor.

51 (h) The commissioner shall issue a license as a cigar retailer pursuant to this section
52 provided an applicant submits a floorplan showing the location of an onsite humidor.

53 (i) A retail tobacconist shall not permit persons under the age of 21 inside the premises,
54 and shall identify age for any retail transaction.

55 (j) A retail tobacconist permitting tobacco smoking on the premises shall post signage
56 indicating that non-cigarette tobacco smoking is permitted, displayed in a conspicuous manner,
57 visible at all times to patrons of the establishment. Cigarette smoking shall not be allowed on the
58 premises.

59 SECTION 3. Section 22 of chapter 270, as appearing in the 2014 Official Edition, is
60 hereby amended by striking out the definition of “retail tobacco store” and inserting in place
61 thereof the following definition:-

62 “Retail tobacco store”, an establishment which is not required to possess a retail food
63 permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco
64 products and paraphernalia, in which the sale of other products is merely incidental, and in which
65 the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit
66 for the retail sale of tobacco products as required to be issued by the appropriate authority in the
67 city or town where the establishment is located or a retail tobacconist license issued pursuant to
68 section 67E of chapter 62C.

69 SECTION 4. Subsection c of said section 22 of said chapter 270, as so appearing, is
70 hereby amended by striking out paragraph (4) and inserting in place thereof the following
71 paragraph:-

72 (4) A retail tobacco store, if the store maintains a valid permit for the sale of tobacco
73 products issued by the appropriate authority in the city or town in which the retail tobacco store
74 is located or a retail tobacconist license issued pursuant to section 67E of chapter 62C. All
75 required permits shall be displayed in a conspicuous manner, visible at all times to patrons of the
76 establishment.