

SENATE No. 2474

The Commonwealth of Massachusetts

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In the One Hundred and Ninetieth General Court
(2017-2018)
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SENATE, Thursday, February 22, 2018

The committee on Consumer Protection and Professional Licensure, to whom was referred the petition (accompanied by bill, Senate, No. 2153) of Michael D. Brady for legislation to further regulate temporary inventory adjustments of malt beverages,- reports the accompanying bill (Senate, No. 2474).

For the committee,
Barbara A. L'Italien

The Commonwealth of Massachusetts

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

An Act further regulating temporary inventory adjustments of malt beverages.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 138 of the General Laws is hereby amended by inserting after section:-

2 Section 22B. (1) The commission shall issue a certificate of registration to a licensee
3 under section 18 who has common ownership or control with a business located outside the
4 commonwealth, that holds a license or other permission that authorizes the exportation or sale of
5 alcoholic beverages to this commonwealth; provided, that such registration shall be issued upon
6 the condition that the holder shall furnish from time to time as the commission may require, but
7 in no event more often than twice a year, information concerning all shipments of malt beverages
8 received pursuant to this registration by the holder thereof.

9 (2) The commission may suspend any registration or levy a fine of not more than
10 \$1000.00 against any registration issued hereunder for a violation of the terms or conditions
11 thereof. All registrations shall be issued to expire December thirty-first of the year of issuance
12 and the fee therefore shall be \$1,000.

13 (3) A registration under this section shall permit the holder thereof to import into the
14 commonwealth or export from this commonwealth into any state where the sale of the same is
15 not prohibited by law, and into any foreign country, only those brands of malt beverages for
16 which the registrant is the exclusive, state-wide distributor in Massachusetts, and only for the
17 purposes set forth in this section. A registration under this section shall authorize the holder:

18 a) To address product shortages that could not reasonably be anticipated by the
19 registrant and which the primary American source of supply cannot fulfill in a timely
20 manner;

21 b) To transfer between the registrant, and entities located outside of the commonwealth
22 under common ownership or control with the registrant, product that is within 30 days of any
23 readily verifiable and consistently followed freshness return or exchange policy set by a supplier
24 of the malt beverage that specifies the date on which the product must be removed from retail;

25 c) To balance and adjust excess inventory or shortfalls in inventory between or among the
26 registrant and any entities inside or outside the commonwealth under common ownership or
27 control with the registrant

28 (4) For the purposes of this section, common ownership or control shall mean one or
29 more entities, including without limitation, corporations, limited liability companies,
30 partnerships, joint ventures, business trusts or any other form of entity, where there is (a)
31 common ownership of at least seventy-five percent (75%) of the ownership interests of the
32 entities or (b) common ownership of at least seventy-five percent (75%) of the voting interests of
33 the entities; and (c) the same parties control the management, policies and decisions of both

34 entities including without limitation the right to direct, restrict, regulate or govern the
35 management, decisions or policies of both entities.

36 (5) The registrant shall identify on the initial application for registration 39 the primary
37 American source of supply from whom the malt beverages are obtained and on each semi annual
38 filing required hereunder. The registration will be amended as necessary within 30 days after any
39 semi-annual report required under this section to reflect any new or additional primary American
40 sources of supply from whom the malt beverages are obtained.

41 (6) (a) No person who holds a certificate under section 18B shall hold or be granted a
42 registration under this section. A person shall be deemed to hold a certificate under section 18B
43 and a registration under this section if such person or any member of his immediate family holds
44 such a certificate and registration. As used in this section the words "immediate family" shall
45 include the certificate holder and his spouse and their parents, children, brothers and sisters.

46 (b) Violation of the provisions of this paragraph 6 shall be cause for the revocation of all
47 certificates and licenses held by the certificate holder and his immediate family.

48 (c) In the case of a certificate holder or registrant any person or his immediate family who
49 owns more than ten per cent of the stock of such corporation shall be deemed to be the certificate
50 holder or registrant under this section.