

SENATE No. 2627

The Commonwealth of Massachusetts

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

SENATE, July 24, 2018

The committee on Ways and Means to whom was referred the Senate Bill expanding the sale of products by farmer breweries and distilleries (Senate, No. 2459),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2627).

For the committee,
Karen E. Spilka

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An Act expanding the sale of products by farmer breweries and distilleries.

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 striking out section 15F, as
2 appearing in the 2016 Official Edition, and inserting in place thereof the following section:-

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

15 be limited to those events certified by the department of agricultural resources as set forth in this
16 section.

17 Sales of alcoholic beverages under this section shall be conducted by the licensee or by
18 an agent, representative or solicitor of the licensee to customers who are not less than 21 years of
19 age. A licensee under this section may provide samples of its alcoholic beverages to prospective
20 customers at an indoor or outdoor agricultural event without charge; provided, however, that any
21 such sample shall be served by the licensee or by an agent, representative or solicitor of the
22 licensee to individuals who are not less than 21 years of age and shall be consumed in the
23 presence of the licensee or an agent, representative or solicitor of the licensee; provided further,
24 that a sample of wine shall not exceed 1 ounce, a sample of malt beverages shall not exceed 2
25 ounces and a sample of distilled spirits shall not exceed $\frac{1}{4}$ ounce; and provided further, that not
26 more than 5 samples shall be served to an individual prospective customer.

27 An applicant for a special license under this section shall first submit a plan to the
28 department of agricultural resources that shall demonstrate that the event is an agricultural event.
29 The plan shall include: (i) a description of the event; (ii) the date, time and location of the event;
30 (iii) a copy of the operational guidelines or rules for the event; (iv) written proof that the
31 prospective licensee has been approved as a vendor at the event, including the name and contact
32 information of the on-site manager; (v) and a plan depicting the premises and the specific
33 location where the license shall be exercised.

34 Upon review of the plan, the department may certify that the event is an agricultural
35 event; provided, however, that in making that determination, the department shall consider: (i)
36 operation as a farmers' market or agricultural fair approved or inspected by the department; (ii)

37 the frequency and regularity of the event, including dates, times and locations; (iii) the number of
38 vendors; (iv) the terms of vendor agreements; (v) the presence of an on-site manager; (vi) the
39 training of the on-site manager; (vii) any operational guidelines or rules, which shall include
40 vendor eligibility and produce source; (viii) the focus of the event on local agricultural products
41 grown or produced within the market area; (ix) the types of shows or exhibits, including those
42 described in subsection (f) of section 2 of chapter 128; and (x) the event's sponsorship or
43 operation by an agricultural or horticultural society organized under the laws of the
44 commonwealth or by a local grange organization or association that has a primary purpose of
45 promoting agriculture and its allied industries. The department of agricultural resources may
46 promulgate rules and regulations necessary for the operation, oversight, approval and inspection
47 of agricultural events under this section.

48 In addition to its application, an applicant for a special license under this section shall file
49 with the local licensing authority proof of certification from the department of agricultural
50 resources that the event is an agricultural event. A special license under this section shall
51 designate the specific premises and the dates and times covered. A special license may be
52 granted for an indoor or outdoor agricultural event that takes place on multiple dates or times
53 during a single calendar year but a special license shall not be granted for an agricultural event if
54 it will not take place within 1 calendar year.

55 The special license shall be conspicuously displayed at the licensed premises. A copy of a
56 special license granted by the local licensing authority shall be submitted by the authority to the
57 commission not less than 7 days before the date the agricultural event is first scheduled to begin.
58 The local licensing authority may charge a fee for each special license granted but such fee shall

59 not exceed \$50. A special license granted under this section shall be nontransferable to any other
60 person, corporation or organization and shall be clearly marked “nontransferable” on its face.

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

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

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