

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross, (BY REQUEST)

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 the direct shipment of distilled spirits.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Shawn Dooley

9th Norfolk

David Hinckley

SENATE No.

By Mr. Ross (by request), a petition (accompanied by bill, Senate, No.) (subject to Joint Rule 12) of Shawn Dooley and David Hinckley for legislation relative to the direct shipment of distilled spirits. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

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

An Act relative to the direct shipment of distilled spirits.

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 1 of chapter 138 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking the definition of “Direct wine shipper” and
3 inserting in place thereof the following new definition:-

4 “Direct shipper”, a person who sells, delivers or exports wine or distilled spirits to
5 consumers in the commonwealth under a license issued pursuant to section 19F.

6 SECTION 2. Section 19F of chapter 138 of the General Laws, as so appearing, is hereby
7 amended by striking the section in its entirety and inserting in place thereof the following new
8 section:-

9 Section 19F. (a) The commission may issue a direct shipper license pursuant to this
10 section to any person, firm or corporation that holds a federal basic permit pursuant to the federal
11 Alcohol Administration Act, compiled in 27 U.S.C. § 201 et seq.; holds a license in the
12 commonwealth or any other state as a wine manufacturer, beverage manufacturer, importer,

13 wholesaler, or retailer; and is in the business of manufacturing, bottling or rectifying distilled
14 spirits and wine.

15 (b) Under this section, a direct shipper licensee may make sales and delivery of distilled
16 spirits or wine directly to residents of the commonwealth who are 21 years of age or older, for
17 personal use and not for resale.

18 (c) The fee for a license issued pursuant to this section shall be \$300 per applicant;
19 provided that an affiliate, franchise or subsidiary of the applicant shall require a separate license.
20 Licenses shall be renewed annually at a fee of \$150. If a direct shipper's license expires and is
21 not renewed, a subsequent application shall be treated as an application for a new license. An
22 applicant for a direct shipper license shall provide the commission and the department of revenue
23 with a true copy of the applicable alcoholic beverage license to manufacture, export and sell the
24 applicant's wine or distilled spirits as issued by the appropriate licensing authority. A copy of the
25 direct shipment license obtained pursuant to this section shall be provided by the commission to
26 the department of revenue.

27 (d) A direct shipper licensee under this section shall ship wine and distilled spirits in
28 accordance with section 22.

29 (e) A direct shipper licensee may ship up to 60 individual containers of not more than 1
30 liter each of distilled spirits and up to 12 cases of wine, containing not more than 9 liters of wine
31 per case, per year to a resident of the commonwealth.

32 (f) A licensee under this section shall: (i) report yearly to the commission and the
33 department of revenue the total number of gallons of wine and distilled spirits shipped into the
34 commonwealth for the preceding year; (ii) pay to the department of revenue, under the

35 department's rules and regulations, for each shipment of wine and distilled spirits the excise
36 levied on importations of wine and distilled spirits calculated under section 21 and any and all
37 other applicable taxes; and (iii) upon request, allow the commission or the department of revenue
38 to perform an audit of the direct shipper licensee's records.

39 (g) No person, firm or corporation shall ship wine or distilled spirits directly to
40 consumers without a direct shipper license. A person, firm or corporation who manufactures,
41 transports, imports or exports wine or distilled spirits in violation of this section shall be deemed
42 to have engaged in a deceptive act or practice under chapter 93A.

43 (h) Whoever ships wine or distilled spirits in violation of this section shall be subject to
44 the following penalties: for a first violation, by suspension of the direct shipper license for 60
45 days or a fine of \$500, or both; for a second violation, by suspension of the direct shipper license
46 for 120 days or a fine of \$1,000, or both; and for a third or subsequent violation, by suspension
47 of the direct shipper license for 1 year or by a fine of \$3,000, or both. A licensee whose license
48 has been suspended for 1 year or more may apply for a direct shipper license and shall be treated
49 as a new applicant. The commission may revoke a direct shipper license after 3 or more
50 violations.

51 (i) If a violation of this section involves the sale or delivery of wine or distilled spirits to a
52 person under 21 years of age, the commission may impose the following additional penalties: for
53 a first violation, by suspension of the direct shipper license for 180 days or a fine of \$1,000, or
54 both; for a second violation, by suspension of the direct shipper license for 1 year or a fine of
55 \$2,000, or both; and for a third or subsequent violation, by suspension of the direct shipper

56 license for 2 years or by a fine of \$5,000, or both. Nothing in this section shall preclude
57 enforcement of violations of section 34.

58 (j) The commission shall promulgate rules and regulations to effectuate this section. The
59 department of revenue may promulgate rules and regulations necessary to effectuate the
60 oversight and collection of taxes due to the commonwealth as a result of the sale and shipment of
61 wine and distilled spirits into the commonwealth pursuant to this section.

62 (k) The commission shall issue an annual report to the joint committee on consumer
63 protection and professional licensure, which shall include, but not be limited to, the number of
64 direct shipper licenses issued and a review of violations and enforcement measures taken
65 pursuant to this section.