

HOUSE No. 252

The Commonwealth of Massachusetts

PRESENTED BY:

Kate Hogan

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 establishing farmer-cideries and authorizing the sale of farmer-cidery products at farmers' markets.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kate Hogan</i>	<i>3rd Middlesex</i>	<i>1/14/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/15/2019</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/15/2019</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/15/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/31/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>1/15/2019</i>
<i>Norman J. Orrall</i>	<i>12th Bristol</i>	<i>1/15/2019</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>1/16/2019</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>1/16/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/17/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/24/2019</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/24/2019</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/24/2019</i>
<i>Ann-Margaret Ferrante</i>	<i>5th Essex</i>	<i>1/24/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>1/28/2019</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>1/25/2019</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/29/2019</i>

<i>Anne M. Gobi</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>1/29/2019</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/29/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>1/30/2019</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>1/30/2019</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/31/2019</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>2/1/2019</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>	<i>2/1/2019</i>
<i>Harold P. Naughton, Jr.</i>	<i>12th Worcester</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/1/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/1/2019</i>

HOUSE No. 252

By Ms. Hogan of Stow, a petition (accompanied by bill, House, No. 252) of Kate Hogan and others that the Alcoholic Beverages Control Commission be authorized to establish farmer-cidery licenses and authorizing the sale of farmer-cidery products at farmers’ markets. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act establishing farmer-cideries and authorizing the sale of farmer-cidery products at farmers’ markets.

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 2016
2 Official Edition, is hereby amended by inserting after the definition of “alcoholic beverages” the
3 following:—

4 “Cider”, a beverage made from fermented apple juice having 6 percent or less of alcohol
5 by volume.

6 SECTION 2. Section 1 of chapter 138 of the General Laws, as so appearing , is hereby
7 further amended by inserting after the definition of “Farmer-brewery” the following:—

8 “Farmer-cider maker”, any person who grows apples for the purpose of producing cider
9 from fermented apple juice and who is licensed to operate a farmer-cidery under section 19I.

10 “Farmer-cidery”, any plant or premise where cider is produced from the fermented juice
11 of apples, provided that said apples are grown by the farmer cider-maker.

12 SECTION 3. Section 15 of chapter 138, as so appearing, is hereby amended by striking
13 out, in lines 4, 5, 6, 69, 71, 168, 182, 192, 194 and 195, the words “wines and malt beverages”
14 and inserting in place thereof, in each instance, the following:— “wines, malt beverages and
15 cider”

16 SECTION 4. Section 15 of chapter 138, as so appearing, is hereby amended by striking
17 out, in line 19, the words “sections 18, 18A, 19, 19B and 19C”, and inserting in place thereof the
18 following:— “sections 18, 18A, 19, 19B, 19C and 19I”

19 SECTION 5. Said section 15 is hereby further amended by striking out, in line 84, the
20 words “sections 18, 18A, 19, 19B and 19C”, and inserting in place thereof the following:—
21 “sections 18, 18A, 19, 19B, 19C and 19I”

22 SECTION 6. Said section 15 is hereby further amended by inserting after the words
23 “farmer-winery under said section 19B”, in line 20, the following:—“or farmer-cidery under said
24 section 19I”

25 SECTION 7. Said section 15 is hereby further amended by inserting after the words
26 “farmer-winery under said section 19B”, in line 85, the following:—“or farmer-cidery under said
27 section 19I”

28 SECTION 8. Said section 15 is hereby further amended by striking out, in line 144, the
29 words “wine or malt beverage tastings” and inserting in place thereof the following:— “wine,
30 malt beverage or cider tastings”

31 SECTION 9. Said section 15 is hereby further amended by inserting, in line 147, after
32 the words “malt beverages” the following:— “or cider”

33 SECTION 10. Said section 15 is hereby further amended by striking out the words “wine
34 or malt beverage” in lines 149, 154, 155 and 156, and inserting in place thereof, in each instance,
35 the following:— “wine, malt beverage or cider”

36 SECTION 11. Section 15F of chapter 138, as so appearing, is hereby amended by
37 inserting, in line 5, after the words “section 19B” the following:— “or an applicant authorized to
38 operate a farmer-cidery under section 19I”

39 SECTION 12. Said section 15F is hereby further amended by inserting after the word
40 “wine”, in lines 8, 11 and 12, in each instance, the following:— “or cider”

41 SECTION 13. Said section 15F is hereby further amended by inserting, in line 16, after
42 the words “one (1) ounce of wine” the following:— “or two (2) ounces of cider”

43 SECTION 14. Chapter 138 of the General Laws, as so appearing, is hereby amended by
44 inserting after section 19H the following section:—

45 Section 19I. (a) For the purpose of encouraging the development of domestic farms, the
46 commission shall issue a farmer-cidery license to any applicant who is both a citizen and resident
47 of the commonwealth and to applying partnerships composed solely of such individuals, and to
48 applying corporations organized under the laws of the commonwealth or organized under the
49 laws of any other state of the United States and admitted to do business in the commonwealth
50 and to applying limited liability companies and limited liability partnerships organized under the
51 laws of the commonwealth, subject to such conditions as the commission may prescribe by

52 regulation to address issues of citizenship and residency and the need for a license manager
53 under section 26 as qualifications for a limited liability company or limited liability partnership
54 to hold a license pursuant to this section and sections 15, 18, 18A, 19, 19B and 19C, unless: (1)
55 such person does not comply with reasonable application procedures required by the
56 commission; or

57 (2) the commission determines that such person is not of responsible character; or

58 (3) a church or school located within 500 feet of the cidery premises has objected to
59 issuance of the license in accordance with section 16C; or

60 (4) the commission determines that the applicant retains or owns an interest, directly or
61 indirectly, in the business of a licensee under section 12 or 15; or

62 (5) the commission determines that the applicant retains or owns an interest, directly or
63 indirectly in more than one business licensed under section 18; or

64 (6) the applicant has not furnished the requisite license fee or bond; or

65 (7) the commission determines that the co-partners, corporate officials or stockholders
66 of the applicant do not meet the requirements of clauses (2), (4) and (5), or that the manager or
67 agent intended to conduct the farmer-cidery business on the applicant's behalf does not meet
68 such requirements, or that such co-partners, officials, stockholders, agent or manager remain
69 undisclosed.

70 (b) The commission may on its own motion, and shall upon the written request of any
71 applicant who has been refused a farmer-cidery license or has been refused transfer or renewal of
72 such a license, hold an evidentiary hearing, notice of which shall be mailed to the applicant at the

73 address given in his application. Such hearing shall be before the commission, or a member
74 thereof. The commission shall present its reasons for refusing issuance. The applicant may
75 appear in person or by counsel, may cross-examine witnesses for the commission and may
76 present evidence. The hearing shall be stenographically or sound recorded. If the hearing is
77 conducted by an examiner, the examiner shall report on the hearing to the commission. The
78 commission shall decide within thirty days of the completion of the hearing whether to issue the
79 farmer-cidery license or grant the transfer or renewal. If the commission refuses the license,
80 transfer or renewal following the hearing, notice in writing of the refusal shall be mailed to the
81 applicant. In all such cases, the commission shall keep on file a statement in the form of an
82 opinion of the reasons for the refusal, and shall furnish a copy thereof to the applicant.

83 (c) Any applicant who has appeared before the commission at such a hearing and who
84 has been refused a farmer-cidery license or the transfer or renewal of such a license may appeal
85 to the superior court of the county where the applicant resides or has his principal place of
86 business within the commonwealth, or to the superior court for Suffolk county.

87 (d) Every applicant for an original cidery license or for a transfer of such a license shall,
88 within seven days after filing an application with the commission, send written notice of his
89 application by registered mail, return receipt requested, to:

90 (1) each school which offers instruction and training to children of compulsory school
91 age in accordance with sections one and four of chapter seventy-one and which is located within
92 a radius of 500 feet from the premises on which the cidery is to be operated; and

93 (2) each church as defined in section 16C which is located within a radius of 500 feet
94 from such premises.

95 The notice shall also state that the church or school has the right to object under section
96 16C to the issuance or transfer of the cidery license. If the authorities in charge of any such
97 school or church complain to the commission in writing that a cidery license has been issued or
98 transferred without the mailing of the requisite notice, and that they object to such issuance or
99 transfer, the commission shall hold a hearing to determine whether the requisite notice was
100 mailed. If after a hearing the commission determines that notice was not mailed as required, then
101 the commission shall cancel the farmer-cidery license unless, such school or church had actual
102 notice, prior to issuance or transfer, of the application and of the right to object under said
103 sixteen C, or such school or church did not complain as soon as possible after actual notification
104 of the application and of the right to object.

105 Any farmer-cider maker aggrieved by the cancellation of his license or any school or
106 church aggrieved by the commission's refusal to cancel such a license may appeal as provided
107 herein.

108 (e) A farmer-cider maker may operate a farmer's cidery under such conditions as the
109 commission may prescribe by regulation.

110 (f) A farmer-cider maker may import apples and other materials necessary to making
111 cider but may not import cider made from fermented apple juice or alcohol into the
112 commonwealth.

113 (g) A farmer-cider maker may sell cider:

114 (1) at wholesale to any person holding a valid license to manufacture alcoholic
115 beverages under section nineteen;

116 (2) at wholesale to any person holding a valid wholesaler's and importer's license under
117 section eighteen;

118 (3) at wholesale to any person holding a valid farmer-cidery license under this section;

119 (4) at wholesale in kegs, casks, barrels or bottles to any person holding a license to sell
120 under section twelve, thirteen or fourteen, and, for the sole purpose of resale in containers in
121 which the cider was delivered, to any person holding a license to sell under section fifteen;
122 provided that the total annual sales to sections twelve, thirteen, fourteen, and fifteen licensees
123 shall not exceed fifty thousand gallons;

124 (5) at wholesale to any registered pharmacist holding a certificate of fitness under
125 section thirty;

126 (6) at wholesale to churches and religious societies, educational institutions,
127 incorporated hospitals, homes for the aged, manufacturers of food products, and manufacturers
128 of drugs and chemicals as authorized by, and subject to the provisions of section 28;

129 (7) at retail by the bottle to consumers for consumption off the cidery premises;

130 (8) at wholesale to any person in any state or territory in which the importation and sale
131 of cider made from fermented apple juice is not prohibited by law; and

132 (9) at wholesale to any person in any foreign country.

133 (h) A farmer-cider maker may not sell at retail to consumers any cider product not
134 produced by the cidery or produced for the cidery and sold under the cidery brand name. All
135 retail sales must be made on the cidery premises.

136 (i) A farmer-cider maker may be licensed by the local licensing authorities to sell cider
137 for consumption on the cidery premises in accordance with this section and such regulations as
138 the commission may prescribe.

139 (j) All cider sold by a licensee hereunder shall be sold and delivered in such manner and
140 under such conditions and with such labels or other marks to identify the producer as the
141 commission may prescribe.

142 (k) Every farmer-cider maker under this section shall keep such records as the
143 commission may prescribe, and shall file with the commission, whenever and as often as it may
144 require, duplicates of copies of such records. The commission shall at all times, through its
145 designated officers or agents, have access to all books, records or other documents of every
146 licensed farmer-cider maker relating to the licensee's cidery business.

147 (l) The annual license fee for each farmer-cider maker in respect of each cidery shall be
148 computed based on the number of gallons produced by the cidery as follows:

149 5,000 gallons or less per year \$ 22. per year

150 More than 5,000 and less than 20,000 gallons per year: \$ 44. per year

151 More than 20,000 gallons and less than 100,000 gallons per year: \$ 82. per year

152 More than 100,000 and less than 200,000 gallons per year: \$110. per year

153 More than 200,000 and less than 1,000,000 gallons per year: \$110. per year

154 Each additional 1,000,000 gallons per year: \$111. per year

155 (m) Every applicant for a farmer-cidery license shall, at the time of filing an application,
156 pay a license fee based on a reasonable estimate of the amount of cider to be produced during the
157 year covered by the license. Persons holding farmer-cidery licenses shall report annually at the
158 end of the year covered by the license the amount of cider produced during such year. If the total
159 amount of such cider exceeds the amount permitted by the fee already paid, the licensee shall
160 pay whatever additional fee is owing under this section.

161 (n) Notwithstanding section 17, a local licensing authority, subject to the approval of the
162 commission, may grant a license to sell cider for consumption on the premises at any location it
163 deems reasonable and proper, and approves in writing, on the grounds of a farmer-cidery
164 licensed under this section and on the grounds of the farm operated as appurtenant and
165 contiguous to, and in conjunction with, such farmer-cidery; provided, however, that such
166 licensees may sell for on-premises consumption only cider produced by the cidery or produced
167 for the cidery and sold under the cidery brand name. All the procedures under section 15A shall
168 apply to the granting of a license under this subsection.

169 SECTION 15. Section 17 of chapter 138 of the General Laws, as so appearing, is hereby
170 amended by striking out, in lines 21, 27 and 41, the words “wine or malt beverages” and
171 inserting in place thereof, in each instance, the following:— “wines, malt beverages or cider”

172 SECTION 16. Said section 17 of chapter 138 is hereby further amended by striking out,
173 in lines 36, 104, 112, 113, 118, 122, 145 and 182, the words “wine and malt beverages” and
174 inserting in place thereof, in each instance, the following:— “wines, malt beverages and cider”

175 SECTION 17. Said section 17 of chapter 138 is hereby further amended by inserting, in
176 line 229, after the words “farmer-winery license under section 19B” the following:— “or a
177 farmer-cidery license under section 19I”

178 SECTION 18. Said section 17 of chapter 138 is hereby further amended by inserting, in
179 line 229, after the words “sale of wine” the following:— “or cider”

180 SECTION 19. Section 18 of chapter 138, as so appearing, is hereby amended by striking
181 out, in lines 14 and 15, the words “sections 15, 18A, 19, 19B and 19C” and inserting in place
182 thereof the following:— “sections 15, 18A, 19, 19B, 19C and 19I”

183 SECTION 20. Section 18A of chapter 138, as so appearing, is hereby amended by
184 striking out, in lines 13 and 14, the words “sections 15, 18, 19, 19B and 19C” and inserting in
185 place thereof the following:— “sections 15, 18, 19, 19B, 19C and 19I”

186 SECTION 21. Section 19 of chapter 138, as so appearing, is hereby amended by striking
187 out, in lines 12 and 13, the words “sections 15, 18, 18A, 19B and 19C” and inserting in place
188 thereof the following:— “sections 15, 18, 18A, 19B, 19C and 19I”

189 SECTION 22. Section 19B of chapter 138, as so appearing, is hereby amended by
190 striking out, in line 14, the words “sections 15, 18, 18A, 19 and 19C” and inserting in place
191 thereof the following:— “sections 15, 18, 18A, 19, 19C and 19I”

192 SECTION 23. . Section 19C of chapter 138, as so appearing, is hereby amended by
193 striking out, in line 14, the words “sections 15, 18, 18A, 19 and 19B” and inserting in place
194 thereof the following:— “sections 15, 18, 18A, 19, 19B and 19I”