

HOUSE No. 289

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph D. McKenna

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 returning liquor license control to municipalities.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>1/9/2019</i>

HOUSE No. 289

By Mr. McKenna of Webster, a petition (accompanied by bill, House, No. 289) of Joseph D. McKenna relative to returning liquor license control to cities and towns. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 176 OF 2017-2018.]

The Commonwealth of Massachusetts

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

An Act returning liquor license control to municipalities.

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 12 of chapter 138 of the General Laws, as so appearing, is hereby
2 amended by striking out, in lines 79 to 81, inclusive, the words “, notwithstanding any limitation
3 on the number of licenses the city or town is authorized to grant in section 17,” and inserting in
4 place thereof the following words:- pursuant to the municipal plan as required by section 17

5

6 SECTION 2. Said section 12 of said chapter 138, as so appearing, is hereby further
7 amended by striking out, in lines 107 to 109, inclusive, the words “and irrespective of any
8 limitation of number of licenses contained in section seventeen”.

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10 SECTION 3. The sixth paragraph of said section 12 of said chapter 138, as so appearing,
11 is hereby amended by striking out the second sentence.

12 SECTION 4. Said section 12 of said chapter 138, as so appearing, is hereby further
13 amended by inserting after the word “antemeridian”, in lines 150 and 155, each time it appears,
14 the following words:- , except in a city or town that is serviced by the Massachusetts Bay
15 Transportation Authority’s late-night service as authorized by chapter 161A if the local
16 governing body of such city or town accepts this provision.

17 SECTION 5. Said section 12 of said chapter 138, as so appearing, is hereby further
18 amended by adding the following 4 paragraphs:-

19 All licenses issued under this section pursuant to a new license application that is filed
20 after July 1, 2016 shall be non-transferable and a licensing authority shall not approve the
21 transfer of such license.

22 If the license granted under this section is cancelled, revoked or no longer in use by the
23 license holder, the license shall be returned physically, with all of the legal rights, privileges and
24 restrictions pertaining thereto to the licensing authority.

25 If a license holder closes or terminates the license holder’s business, or sells or transfers
26 the license holder’s business, the license holder shall return the license physically, with all of the
27 legal rights, privileges and restrictions pertaining thereto to the licensing authority. The
28 licensing authority may then in its discretion grant a license to a qualified new applicant at a
29 different location according to the standard for a new license.

30

31 A license may be re-issued by the licensing authority at the same location only if an
32 applicant for the license files with the local licensing authority a letter from the department of
33 revenue and any applicable government agency indicating that the license is in good standing
34 with the department and agency and that all applicable taxes, payments, assessments and
35 contributions for unemployment and health insurance have been paid. If a license is granted
36 under this section then cancelled, revoked or no longer in use, and then re-issued to a new
37 applicant at the same location and the prior license holder at that location was reported as
38 delinquent as specified in section 25, the name of the new license applicant shall appear in the
39 place and stead of the former license holder, as of the date of the new license being issued, unless
40 the alcoholic beverages control commission otherwise orders in writing, for good cause, after a
41 hearing with notice to all parties.

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43 SECTION 6. The first paragraph of section 14 of said chapter 138, as so appearing, is
44 hereby amended by striking out the first sentence and inserting in place thereof the following
45 sentence:- Special licenses for the sale of all alcoholic beverages or wine and malt beverages
46 only, or any of them, may be issued, as determined by the municipality, by the local licensing
47 authorities to the responsible manager of any indoor or outdoor activity or enterprise or to the
48 responsible manager of any nonprofit organization conducting any indoor or outdoor activity or
49 enterprise.

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51 SECTION 7. Section 16A of said chapter 138, as so appearing, is hereby amended by
52 striking out, in line 12, the word “so” and inserting in place thereof the following words:- as
53 determined by a municipality to be.

54

55 SECTION 8. Said section 16A of said chapter 138, as so appearing, is hereby further
56 amended by striking out, in lines 15 and 16, the words “, to the extent that the same are issuable
57 under section seventeen”.

58

59 SECTION 9. Said section 16A of said chapter 138, as so appearing, is hereby further
60 amended by striking out, in line 19, the words “for the purposes of section seventeen”.

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62 SECTION 10. Section 17 of said chapter 138, as so appearing, is hereby amended by
63 striking out the introductory paragraph and the first 6 paragraphs and inserting in place thereof
64 the following 3 paragraphs:-

65

66 Section 17. A city or town shall determine the number of all alcoholic beverage or wines
67 and malt beverage licenses to be issued by its local licensing authority under sections 12, 14 and
68 15F, including the number of seasonal licenses; provided, that for licenses issued under section
69 15, cities and towns may grant 1 such license for each population unit of 5,000 or any additional
70 fraction thereof but may, regardless of population, grant at least 2 licenses under section 15.

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72 A city or town that seeks to grant additional licenses on or after January 1, 2018 shall
73 adopt a plan that is approved by the mayor, city council or board of selectmen. The plan shall
74 determine the process for granting additional licenses; provided, however, that: (i) at least 1
75 public hearing regarding the plan shall be conducted by the city council, board of selectmen or
76 governing body of the city or town; and (ii) the city or town shall notify the alcoholic beverages
77 control commission of the public hearing.

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79 The governing body of each city or town shall hold a public hearing regarding a license
80 application within 30 days of the date of the license application.

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82 SECTION 11. Sections 17A to 17C, inclusive, of said chapter 138, as so appearing, are
83 hereby repealed.

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85 SECTION 12. Section 29 of said chapter 138, as so appearing, is hereby amended by
86 striking out, in lines 22 to 24, inclusive, the words “; but a license issued to a registered
87 pharmacist under said section shall be included in computing the number of licenses that may be
88 granted in any city or town as provided in section seventeen”.

89

90 SECTION 13. Sections 3, 6, and 10 of chapter 193 of the acts of 2011 are hereby
91 repealed.

92 SECTION 14. On or after January 1, 2018, the number of licenses then authorized under
93 section 17 of chapter 138 of the General Laws shall continue unless changed by the governing
94 body of a city or town under said section 17 of said chapter 138