

SENATE No. 152

The Commonwealth of Massachusetts

PRESENTED BY:

Adam G. Hinds

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 expanding the sale of products by farmer distilleries and wineries.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|-------------------------------|---|-----------------|
| <i>Adam G. Hinds</i> | <i>Berkshire, Hampshire, Franklin and Hampden</i> | |
| <i>Donald F. Humason, Jr.</i> | <i>Second Hampden and Hampshire</i> | <i>2/1/2019</i> |

SENATE No. 152

By Mr. Hinds, a petition (accompanied by bill, Senate, No. 152) of Adam G. Hinds and Donald F. Humason, Jr. for legislation to expand the sale of products by farmer distilleries and wineries. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

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

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

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. Chapter 138 of the General Laws is hereby amended by striking out section
2 15F, as appearing in the 2016 Official Edition, and inserting in place thereof the following
3 section:-

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

13 section, “agricultural event” shall be limited to those events certified by the department of
14 agricultural resources as set forth in this section.

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

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

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

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

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

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

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

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

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