

SENATE No. 2596

The Commonwealth of Massachusetts

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

SENATE, March 12, 2020.

The committee on Ways and Means to whom was referred the Senate Bill expanding the sale of products by farmer distilleries and wineries (Senate, No. 2467), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2596) (also based on Senate, No. 461).

For the committee,
Michael J. Rodrigues

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**In the One Hundred and Ninety-First General Court
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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 Chapter 138 of the General Laws is hereby amended by striking out section 15F, as
2 appearing in the 2018 Official Edition, and inserting in place thereof the following section:-

3 Section 15F. (a) For the purposes of this section, “agricultural event” shall only include
4 events certified by the department of agricultural resources pursuant to this section.

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

14 consumption, the applicant is authorized to operate a farmer-distillery under section 19E and the
15 city or town is authorized to grant licenses for the sale of all alcoholic beverages.

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

26 (d) An applicant for a special license under this section shall first submit a plan to the
27 department of agricultural resources that shall demonstrate that the event is an agricultural event.
28 The plan shall include: (i) a description of the event; (ii) the date, time and location of the event;
29 (iii) a copy of the operational guidelines or rules for the event; (iv) written proof that the
30 applicant has been approved as a vendor at the event, including the name and contact information
31 of the on-site manager; and (v) a plan depicting the premises and the specific location where the
32 license shall be exercised. Upon review of the plan, the department may certify that the event is
33 an agricultural event; provided, however, that in making that determination, the department shall
34 consider: (i) whether the event is operating as a farmers' market or agricultural fair approved or
35 inspected by the department; (ii) the frequency and regularity of the event, including dates, times
36 and locations; (iii) the number of vendors; (iv) the terms of vendor agreements; (v) the presence

37 of an on-site manager; (vi) the training of the on-site manager; (vii) any operational guidelines or
38 rules, which shall include vendor eligibility and produce source; (viii) the focus of the event on
39 local agricultural products grown or produced within the market area; (ix) the types of shows or
40 exhibits, including those described in subsection (f) of section 2 of chapter 128; and (x) the
41 event's sponsorship or operation by an agricultural or horticultural society organized under the
42 laws of the commonwealth or by a local grange organization or association that has a primary
43 purpose of promoting agriculture and its allied industries. The department may promulgate rules
44 and regulations necessary for the operation, oversight, approval and inspection of agricultural
45 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 shall designate the specific
49 premises and the dates and times covered; provided, however, that 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; provided further, that a special license shall not be granted for an
52 agricultural event if the event will not take place within 1 calendar year.

53 (e) A special license under this section shall be conspicuously displayed at the licensed
54 premises. The licensing authority shall submit a copy of a special license to the commission not
55 less than 7 days before the date the agricultural event is first scheduled to begin. The local
56 licensing authority may charge a fee for each special license granted; provided, however, that the
57 fee shall not exceed \$50. A special license shall be nontransferable to any other person,
58 corporation or organization and shall be clearly marked "nontransferable" on its face.

59 (f) 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 from 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 implement this section.