HOUSE . . . . . No. 3872

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 14, 2021.

The committee on Ways and Means, to whom was referred the Senate Bill relative to extending certain COVID-19 measures adopted during the state of emergency (Senate, No. 2472), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 3872.

For the committee,

AARON MICHLEWITZ.

HOUSE . . . . . No. 3872

Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to extending certain COVID-19 measures adopted during the state of emergency (Senate, No. 2472). June 14, 2021.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

By striking out all after the enacting clause and inserting in place thereof the following:–

SECTION 1. Section 13 of chapter 53 of the acts of 2020, as amended by section 1 of chapter 118 of the acts of 2020, is hereby further amended by striking out the words "February 28, 2021" and inserting in place thereof the following words:- July 31, 2022.

SECTION 2. Said section 13 of said chapter 53 is hereby further amended by striking out the words "and (iv) a customer shall be limited to 192 ounces of malt beverages and 1.5 liters of wine per transaction" and inserting in place thereof the following words:- (iv) a customer shall be limited to 192 ounces of malt beverages and 1.5 liters of wine per transaction; and (v) the wine or malt beverages shall be sold at the same price for on-premises consumption and for off-premises consumption.

SECTION 3. Section 15 of said chapter 53 is hereby amended by striking out the words "and 60 days thereafter" and inserting in place thereof the following words:- or until December 15, 2021, whichever is later.

SECTION 4. Said section 15 of said chapter 53 is hereby further amended by striking out the word “section,” and inserting in place thereof the following words:- section or a corporation as defined in section 2 of chapter 180 of the General Laws,.

SECTION 5. Section 16 of said chapter 53 is hereby amended by striking out the words “and 60 days thereafter and” and inserting in place thereof the following words:- or until December 15, 2021, whichever is later, and.

SECTION 6. Section 2 of chapter 65 of the acts of 2020 is hereby amended by striking out the words “the termination of the COVID-19 emergency, due to the outbreak of the 2019 novel coronavirus, also known as COVID-19” and inserting in place thereof the following words:- December 15, 2021.

SECTION 7. Section 8 of chapter 71 of the acts of 2020 is hereby amended by striking out the words “3 business days after termination of the governor’s March 10, 2020 declaration of a state of emergency” and inserting in place thereof the following words:- on December 15, 2021.

SECTION 8. Subsection (a) of section 7 of chapter 92 of the acts of 2020 is hereby amended by inserting after the word “emergency” the following words:- or during a period ending on December 15, 2021, whichever period ends later,.

SECTION 9. Subsection (a) of section 8 of said chapter 92 is hereby amended by inserting after the word “emergency” the following words:- or during a period ending on December 15, 2021, whichever period ends later.

SECTION 10. Subsection (b) of section 2 of chapter 118 of the acts of 2020 is hereby amended by striking out the words “February 28, 2021” and inserting in place thereof the following words:- July 31, 2022.

SECTION 11. Said subsection (b) of said section 2 of said chapter 118 is hereby further amended by striking out “and (v) if the mixed drink in a sealed container is to be transported by a motor vehicle, either by delivery or pick-up, the driver of a motor vehicle shall transport the mixed drink in the trunk of the motor vehicle or some other area that is not considered the passenger area, as defined by section 24I of chapter 90 of the General Laws” and inserting in place thereof the following words:- (v) if the mixed drink in a sealed container is to be transported by a motor vehicle, either by delivery or pick-up, the driver of a motor vehicle shall transport the mixed drink in the trunk of the motor vehicle or some other area that is not considered the passenger area, as defined by section 24I of chapter 90 of the General Laws; and (vi) the mixed drink shall be sold at the same price for on-premises consumption and for off-premises consumption.

SECTION 12. Item 7004-0108 of section 2 of chapter 227 of the acts of 2020 is hereby amended by striking out the word “until” and inserting in place thereof the following words:- and until 60 days after.

SECTION 13. Item 7004-9316 of said section 2 of said chapter 227 is hereby amended by striking out the word “until”, each time it appears, and inserting in place thereof, in each instance, the following words:- and until 60 days after.

SECTION 14. Subsection (a) of section 1 of chapter 257 of the acts of 2020 is hereby amended by striking out the words “the termination of the state of emergency concerning the

outbreak of COVID-19 as declared by the governor on March 10, 2020" and inserting in place thereof the following words:- 10 days after the termination or nullification of the Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Order issued by the federal Centers for Disease Control and Prevention.

SECTION 15. Said section 1 of said chapter 257 is hereby further amended by striking out subsection (a), as amended by section 14, and inserting in place thereof the following subsection:- (a) Notwithstanding section 11 or section 12 of chapter 186 of the General Laws, chapter 239 of the General Laws or any other general or special law to the contrary, a notice to quit for non-payment of rent given in writing by a landlord to a residential tenant pursuant to said section 11 or said section 12 of said chapter 186 shall be accompanied by a form that shall include, but not be limited to: (i) documentation of any agreements between the tenant and landlord for the tenant to repay the landlord for non-payment of rent; and (ii) information on: (A) rental assistance programs including, but not limited to, the residential assistance for families in transition program; (B) applicable trial court rules, standing orders or administrative orders pertaining to actions for summary process; and (C) any relevant federal or state legal restrictions on residential evictions. The form shall also prominently display the following statement:

"THIS NOTICE TO QUIT IS NOT AN EVICTION. YOU DO NOT NEED TO IMMEDIATELY LEAVE YOUR UNIT. YOU ARE ENTITLED TO A LEGAL PROCEEDING IN WHICH YOU CAN DEFEND AGAINST THE EVICTION. ONLY A COURT ORDER CAN FORCE YOU TO LEAVE YOUR UNIT."

The executive office of housing and economic development shall develop the form required under this subsection and make it publicly available on its website. The information in

clause (ii) shall be made available in the 5 most common languages in the commonwealth, in addition to English. A court having jurisdiction over an action for summary process pursuant to said chapter 239, including the Boston municipal court department, shall not, in an eviction for non-payment of rent for a residential dwelling unit, accept for filing a writ, summons or complaint without proof of delivery of the form required under this subsection.

SECTION 16. Subsection (b) of said section 1 of said chapter 257 is hereby amended by striking out the words ", from the passage of this act until the termination of the state of emergency concerning the outbreak of the novel coronavirus disease, also known as COVID-19, declared by the governor on March 10, 2020".

SECTION 17. Said section 1 of said chapter 257 is hereby repealed.

SECTION 18. Section 2 of said chapter 257 is hereby amended by inserting after the word "emergency", the sixth and ninth times it appears, the following words:- or until April 1, 2022, whichever is later.

SECTION 19. Section 3 of said chapter 257 is hereby amended by inserting after the word "emergency", the first time it appears, the following words:- or until January 1, 2023, whichever is later.

SECTION 20. Subsection (b) of section 98 of chapter 358 of the acts of 2020 is hereby amended by inserting after the word "emergency" the following words:- or until December 31, 2021, whichever is later.

SECTION 21. (a) Notwithstanding any general or special law to the contrary, the governor shall provide notice to the clerks of the house of representatives and senate and the

house and senate committees on ways and means not less than 31 days before the termination of the declaration that an emergency exists which is detrimental to the public health declared by the governor on May 28, 2021 pursuant to section 2A of chapter 17 of the General Laws in response to the outbreak of the 2019 novel coronavirus, also known as COVID-19.

(b) Notwithstanding any general or special law to the contrary, the commissioner of public health shall provide notice to the clerks of the house of representatives and senate and the house and senate committees on ways and means not less than 31 days before the termination of any public health order established pursuant to section 2A of chapter 17 of the General Laws in response to the outbreak of COVID-19 or the declaration that an emergency exists which is detrimental to the public health declared by the governor on May 28, 2021.

SECTION 22. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Commission", the alcoholic beverages control commission, established by section 70 of chapter 10 of the General Laws.

"Outdoor table service", restaurant service that includes food prepared on-site and under a food establishment permit issued by a municipal authority pursuant to 105 CMR 590.00 that is served to seated diners outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area or other outdoor space.

(b) Notwithstanding chapter 40A of the General Laws, any special permit, variance or other approval issued thereunder or any general or special law to the contrary, from the effective date of this act until April 1, 2022, a city or town may approve a request for expansion of outdoor table service, including in the description of licensed premises as described in subsection

(c), or an extension of an earlier granted approval issued under section 4 of the governor's COVID-19 Order No. 35 or section 1 of the governor's COVID-19 Order No. 50. Before such approval, the mayor, select board or other chief executive officer, as established by charter or special act, shall establish the process for approving such requests. Such process shall not be required to comply with the notice and publication provisions of section 11 of said chapter 40A. An approval under this section may be exercised immediately upon filing of notice thereof with the city or town clerk, without complying with any otherwise applicable recording or certification requirements.

(c) Pursuant to subsection (b), a local licensing authority may grant approval for a change in the description of the licensed premises for the purpose of permitting outdoor alcohol service as the local licensing authority deems reasonable and proper, and issue an amended license to existing license holders, without further review or approval from the commission prior to issuance. Upon approval of an amended license, the local licensing authority shall provide notice of the amended license to the commission. Nothing in this section shall prevent the commission from exercising the commission's enforcement authority over an amended license.

(d) Before approving any request to extend an earlier granted approval issued under section 4 of the governor's COVID-19 Order No. 35 or section 1 of the governor's COVID-19 Order No. 50, a city, town or local licensing authority may modify the scope of the approval as the city, town or local licensing authority deems proper and appropriate including, but not limited to, modifying the terms of an earlier granted approval to address potential issues with snow removal, pedestrian traffic or similar concerns.

(e) Any outdoor table service approved for expansion under this section, including an amended license issued by a local licensing authority under subsection (c), shall automatically revert back to the status prior to the approval of the change for expansion of outdoor table service or in the description of a licensed premises on April 1, 2022. Any extension of an earlier granted approval issued under section 4 of the governor's COVID-19 Order No. 35 or section 1 of the governor's COVID-19 Order No. 50 shall automatically revert back to the status prior to the approval issued under said section 4 of the governor's COVID-19 Order No. 35 or said section 1 of the governor's COVID-19 Order No. 50 on April 1, 2022.

SECTION 23. (a) For the purposes of this section, "adequate, alternative means of public access" shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body, including, but not limited to, providing public access through telephone, internet, satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring.

(b) Notwithstanding section 20 of chapter 30A of the General Laws or any general or special law to the contrary, a public body, as defined in section 18 of said chapter 30A, shall not be required to conduct its meetings in a public place that is open and physically accessible to the public; provided, that if the public body does not conduct the meeting in a public place that is open and physically accessible to the public, the public body shall ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means of public access. Where active, real-time participation by members of the public is a specific requirement of a general or special law, regulation or a local ordinance or by-law, pursuant to which the proceeding is conducted, any adequate, alternative means of public

access shall provide for such participation and shall be sufficient to meet such participation requirement. A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide adequate, alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law, regulation or a local ordinance or by-law that requires allowance for active participation by members of the public. A public body shall offer its selected adequate, alternative means of public access to its proceedings without subscription, toll or similar charge to the public.

(c) Notwithstanding subsection (d) of section 20 of chapter 30A of the General Laws or any other general or special law to the contrary, a public body may allow remote participation by all members in any meeting of the public body and a quorum of the body and the chair shall not be required to be physically present at a specified meeting location.

(d) A public body that elects to conduct its proceedings under this section shall ensure that any party entitled or required to appear before it shall be able to appear through remote means, as if the party were a member of the public body and participating remotely as provided in subsection (b).

(e) All other provisions of sections 18 to 25 of chapter 30A of the General Laws and the attorney general's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

SECTION 24. (a) For the purposes of this section “guidelines” shall mean the Guidelines for Use of Space for Screening, Testing or Sample Collection of Patient Presenting with possible COVID-19 Exposure or Illness as established in a memorandum prepared by the bureau of health care safety and quality in the department of public health and dated May 12, 2020.

(b) Notwithstanding any general or special law to the contrary, a health clinic may use space selected by the clinic on, adjacent to or reasonably proximate to the health clinic’s premises for testing of possible COVID-19 patients; provided, however, that the clinic shall comply with the guidelines, as applicable, and receive any necessary local approvals required for the erection and use of temporary structures.

SECTION 25. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Designated Massachusetts Military Division staff”, military personnel who are certified by the United States Army as Combat Lifesavers.

“Medical assistant”, a person who performs basic administrative, clerical and clinical duties under the direct supervision of a licensed physician, nurse practitioner or physician assistant.

“Podiatrist”, a person licensed pursuant to section 16 of chapter 112 of the General Laws to practice podiatric health.

“Phlebotomist”, a person whose responsibilities include, but are not limited to: (i) collecting blood samples from patients under the supervision of a licensed physician, nurse practitioner or physician assistant; (ii) separating blood into different test tubes in order for it to

be used in medical tests; (iii) accurately labeling said tubes; and (iv) ensuring correct samples are sent to the laboratory.

(b) Notwithstanding sections 16 and 265 of chapter 112 of the General Laws or any other general or special law to the contrary, a podiatrist, a phlebotomist, a medical assistant who otherwise does not meet the requirements to administer vaccine pursuant to said section 265 of said chapter 112 and designated Massachusetts Military Division staff may administer COVID-19 vaccines with emergency use authorization from the United States Food and Drug Administration.

SECTION 26. Notwithstanding section 11 of chapter 19D of the General Laws or any other general or special law to the contrary, until the termination of the declaration that an emergency exists which is detrimental to the public health declared by the governor on May 28, 2021 or until December 15, 2021, whichever is sooner: (i) a nurse employed by an assisted living residence that is certified by the executive office of elder affairs may provide skilled nursing care in accordance with valid medical orders if the nurse holds a valid license to provide such care; (ii) an assisted living residence may retain residents who require skilled care for more than 90 consecutive days; (iii) the staffing requirements in 651 CMR 12.06(5)(b) shall not apply; provided, however, that an assisted living residence ensures that it has sufficient staffing at all times to meet the needs of the residents, as set out in guidance issued by the executive office of elder affairs on April 2, 2020; and (iv) the training requirements set out in 651 CMR 12.07 shall not apply; provided, however, that an assisted living residence shall procure staff with adequate experience and provide on-the-job training to safely perform their duties, as set out in said guidance issued by the executive office of elder affairs on April 2, 2020.

SECTION 27. Notwithstanding any general or special law to the contrary, the department of unemployment assistance shall continue to enforce the provisions of department's policy memorandum UIPP 2020.12 issued on October 8, 2020 as it applies to caregiver responsibilities and the adjudication of such claims until the expiration of section 4102(b) of the Families First Coronavirus Response Act, Public Law 116-127. Not less than 30 days prior to the discontinuation of any guidance or policy issued by the department that affects claimant eligibility or changes benefits eligibility, a claimant shall be notified in their preferred language and via their preferred method of communication of the discontinuation.

SECTION 28. Sections 23, 24, 25 are hereby repealed.

SECTION 29. Section 15 shall take effect 10 days after the termination or nullification of the Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19 Order issued by the federal Centers for Disease Control and Prevention.

SECTION 30. Section 17 shall take effect on January 1, 2023.

SECTION 31. Section 28 shall take effect on April 1, 2022.