

HOUSE No. 3946

The Commonwealth of Massachusetts

PRESENTED BY:

Danillo A. Sena

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 to enhance diversity in the awarding of liquor licenses.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Danillo A. Sena</i>	<i>37th Middlesex</i>	<i>6/28/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>7/13/2021</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>9/9/2021</i>

HOUSE No. 3946

By Mr. Sena of Acton, a petition (subject to Joint Rule 12) of Danilo A. Sena relative to enhancing diversity in the awarding of liquor licenses. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

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

An Act to enhance diversity in the awarding of liquor licenses.

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 13A of chapter 30A of the General Laws, as so appearing in the
2 2018 Official Edition, is hereby amended by inserting after the word "number," in line 4, the
3 following words:—

4 or for the purposes of chapter 138 an individual taxpayer identification number.

5 SECTION 2. Said section 13A of said chapter 30A, as so appearing, is hereby amended
6 by inserting after the word "number," in line 5, the following words:—

7 or individual taxpayer identification number.

8 SECTION 3. Said section 13A of said chapter 30A, as so appearing, is hereby amended
9 by inserting after the word "number," in line 7, the following words:—

10 or individual taxpayer identification number.

SECTION 4. Said section 13A of said chapter 30A, as so appearing, is hereby amended by inserting after the word "number," in line 10, the following words:—

or individual taxpayer identification number.

SECTION 5. Section 15 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:—

The local licensing authorities in any city or town which votes to authorize the granting of licenses for the sale of all alcoholic beverages, and such authorities in any city or town which votes to authorize the granting of licenses for the sale of wines and malt beverages only, may grant licenses for the sale at retail of such alcoholic beverages or wines and malt beverages, as the case may be, not to be drunk on the premises, to applicants therefor who hold a valid social security number or individual taxpayer identification number and are residents of the commonwealth, or partnerships composed solely of such individuals that hold a valid social security number or individual taxpayer identification number and are residents or to corporations organized under the laws of the commonwealth and whereof all directors shall hold a social security number or individual taxpayer identification number and a majority residents of the commonwealth or to limited liability companies or limited liability partnerships organized under the laws of the commonwealth, subject to such conditions as the commission may prescribe by regulation to address issues of residency and the requirements for a manager or principal representative of a non-citizen licensee under section 26 as qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this section and sections 18,

18A, 19, 19B and 19C, or to an applicant licensed to operate as a farmer-winery under said section 19B or in any other state.

SECTION 6. Section 18 of said chapter 138, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:—

The commission may issue to any individual who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth, and to any ship Chandler licensed under the provisions of section thirteen and to partnerships composed solely of such individuals, and to corporations organized under the laws of the commonwealth whereof all the directors hold a valid social security number or individual taxpayer identification number and a majority thereof residents of the commonwealth and to limited liability companies and limited liability partnerships organized under the laws of the commonwealth, subject to such conditions as the commission may prescribe by regulation to address issues of residency and the requirements for a manager or principal representative of a non-citizen licensee under section 26 as qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this section and sections 15, 18A, 19, 19B and 19C, licenses as wholesalers and importers (1) to sell for resale to other licensees under this chapter alcoholic beverages manufactured by any manufacturer licensed under the provisions of section nineteen and to import alcoholic beverages into the commonwealth from holders of certificates issued under section eighteen B whose licensed premises are located in other states and foreign countries for sale to such licensees, or (2) to sell for resale wines and malt beverages so manufactured to such licensees and to import as aforesaid wines and malt beverages for sale to such licensees.

SECTION 7. Section 18A of said chapter 138, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

The commission may issue to any individual who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth, or to any partnership composed solely of such individuals, or to any corporation organized under the laws of the commonwealth or organized under the laws of any other state of the United States or of any foreign country and admitted to do business in the commonwealth or to a limited liability company or a limited liability partnership organized under the laws of the commonwealth, subject to such conditions as the commission may prescribe by regulation to address issues of residency and the requirements for a manager or principal representative of a non-citizen licensee under section 26 as qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this section and sections 15, 18, 19, 19B and 19C, a license which shall authorize the licensee to act as agent, broker or solicitor for any specified individual, corporation or partnership in another state or foreign country engaged in the business of manufacturing, importing or selling alcoholic beverages, hereinafter called the principal, and, on behalf of such principal, to solicit orders for such beverages from holders of licenses under section eighteen only. A license granted hereunder shall authorize representation of one principal only, but the licensee may also, in the discretion of the commission, be licensed hereunder to represent other principals. No licensee hereunder shall buy or sell alcoholic beverages for his own account, and no such beverages shall be brought into the commonwealth in pursuance of the exercise of such a license otherwise than through a licensee under said section eighteen.

SECTION 8. Section 18C of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) The commission may issue to an individual who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth or to a corporation organized under the laws of the commonwealth whose directors are all holders of a social security number or individual taxpayer identification number and a majority of them residents of the commonwealth, or to a limited liability company or limited liability partnership organized under the laws of the commonwealth whose members are all holders of a social security number or individual taxpayer identification number and a majority of them residents of the commonwealth, a license to import alcoholic beverages into the commonwealth for use only in connection with the manufacture of food products, including ice cream. Nothing in this section shall authorize the holder of an importer's license issued under this section to sell alcoholic beverages as he is licensed to import only, or to export alcoholic beverages from the commonwealth into any other state or into a foreign country. A vote in a city or town pursuant to section 11 shall not prevent the granting or renewal of a license under this section. All alcoholic beverages purchased by a licensee under this section, and all alcoholic beverages shipped into the commonwealth pursuant to any such purchase, shall be warehoused at the warehouse facilities of the licensee and held in his physical possession at the warehouse. An importer under this section shall keep such records as the commission may prescribe and shall file with the commission, as often as it may require, duplicates or copies of those records. The commission shall have, at all times through its designated officers or agents, access to all books, records and other documents of each licensed importer relating to the licensee's importer business.

SECTION 9. Section 19 of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) The commission may issue to any individual who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth and to partnerships, composed solely of such individuals, and to corporations organized under the laws of this commonwealth or organized under the laws of any other state of the United States and admitted to do business in this commonwealth and to limited liability companies and limited liability partnerships organized under the laws of the commonwealth, subject to such conditions as the commission may prescribe by regulation to address issues of residency and the need for a license manager under section 26 as qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19B and 19C, licenses to manufacture alcoholic beverages. Manufacturers of such beverages may sell the same to any licensee holding a valid license granted by the licensing authorities for the sale within the commonwealth in accordance with the provisions of this chapter, and may also sell such beverages for export from this commonwealth into any state where the sale of the same is not by law prohibited, and into any foreign country; and manufacturers of such beverages may sell the same to any registered pharmacist holding a certificate of fitness under section thirty and also as authorized by section twenty-eight.

Subject to such regulations as may be prescribed by the commission, licensees under this section may rectify or blend, but only upon such premises and under such conditions as the commission shall approve, alcoholic beverages manufactured by them. All alcoholic beverages sold by any manufacturer thereof shall be sold and delivered in such manner, and under such conditions, and with such labels or other marks to identify the manufacturer, as the commission shall from time to time prescribe by regulations; provided, that sales of such beverages may be made in kegs, casks, barrels or bottles, to holders of wholesalers' and importers' licenses; and

121 provided, further, that sale of wines and malt beverages may be made in kegs, casks or barrels by
122 any manufacturer licensed under this section to licensees authorized to sell such beverages under
123 section twelve, thirteen or fourteen and, for the sole purpose of resale in the containers in which
124 the same were delivered, to licensees under section fifteen. No licensee under section fifteen
125 shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such
126 containers.

127 Every licensed manufacturer of alcoholic beverages shall keep such records in such detail
128 and affording such information as the commission may from time to time prescribe, and shall file
129 with the commission, whenever and as often as it may require, duplicates of copies of such
130 records; and the commission shall at all times, through its designated officers or agents, have
131 access to all books, records and other documents of every licensed manufacturer relating to the
132 business which he is licensed hereunder to conduct.

133 The license fee for each manufacturer of alcoholic beverages, in respect of each plant,
134 shall be such sum, not less than \$6,000 nor more than \$10,000, as under the circumstances of the
135 licensee's probable volume of sales under this section, the capacity of his plant and the location
136 thereof, the commission shall deem just and proper; provided, that the license fee for each
137 manufacturer of cider or other alcoholic beverage made from apples shall be such sum, not less
138 than twenty-five nor more than two hundred and fifty dollars, as the commission shall deem just
139 and proper, but no such fee shall be collected from any such manufacturer for the making of
140 cider, the sale of which is authorized by section three without a license.

141 No vote in any city or town under section eleven shall prevent the granting or renewal of
142 a license under this section.

SECTION 10. Section 19A of said chapter 138, as so appearing, is hereby amended by striking out, in line 2, the word "citizens" and inserting in place thereof the following word:— residents.

SECTION 11. Section 19B of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) For the purpose of encouraging the development of domestic vineyards, the commission shall issue a farmer-winery license to any applicant who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth, and to applying partnerships composed solely of such individuals, and to applying corporations organized under the laws of the commonwealth or organized under the laws of any other state of the United States and admitted to do business in this commonwealth and to applying limited liability companies and limited liability partnerships organized under the laws of the commonwealth, subject to such conditions as the commission may prescribe by regulation to address issues of residency and the need for a license manager under section 26 as qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19 and 19C, unless:

(1) such person does not comply with reasonable application procedures required by the commission; or

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

(3) a church or school located within five hundred feet of the winery premises has objected to issuance of the license in accordance with section sixteen C; or

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

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

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

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

SECTION 12. Section 19C of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) For the purpose of encouraging the development of domestic farms, the commission shall issue a farmer-brewery license to any applicant who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth and to applying partnerships composed solely of such individuals, and to applying corporations organized under the laws of the commonwealth or organized under the laws of any other state of the United States and admitted to do business in the commonwealth and to applying limited liability companies and limited liability partnerships organized under the laws of the commonwealth, subject to such conditions as the commission may prescribe by regulation to address issues of residency and the need for a license manager under section 26 as qualifications for a limited liability company or limited liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19

and 19B, unless: (1) such person does not comply with reasonable application procedures required by the commission; or

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

(3) a church or school located within five hundred feet of the brewery premises has objected to issuance of the license in accordance with section sixteen C; or

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

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

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

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

SECTION 13. Section 19D of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) The commission shall issue a pub brewery license to an applicant who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth and to applying partnerships and to applying corporations organized under the laws of the commonwealth or organized under the laws of any other state and admitted to do

207 business in the commonwealth and to applying limited liability companies or limited liability
208 partnerships organized under the laws of the commonwealth unless:

209 (1) such person does not comply with application procedures required by the
210 commission;

211 (2) the commission determines that such applicant is not of responsible character;

212 (3) a church or school located within 500 feet of the brewery premises has objected to the
213 issuance of such license in accordance with the provisions of section 16C and the commission
214 finds that the pub brewery premises are detrimental to the spiritual activities of such church;

215 (4) the commission determines that the applicant retains or owns an interest, directly or
216 indirectly, in the business of a licensee under section 15 or a business which would be licensed
217 under said section 15 if it were located within the commonwealth;

218 (5) the commission determines that the applicant retains or owns an interest, directly or
219 indirectly, in a business license under section 18 or a business which would be licensed under
220 said section 18 if it were located within the commonwealth;

221 (6) the commission determines that the applicant retains or owns an interest, directly or
222 indirectly, in any activity or in any business directly or indirectly engaged in the business of
223 manufacturing any alcoholic beverages either within or outside of the commonwealth, except
224 any interest, directly or indirectly, in a pub brewery license under this section or any business
225 which would be licensed as a pub brewery under this section if it were located within the
226 commonwealth;

(7) the commission determines that the applicant retains or owns an interest, directly or indirectly, in the business of a holder of a certificate issued under section 18B;

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

(9) the commission determines that the co-partners, corporate officials or stockholders of the applicant do not meet the requirements of clauses (2), (4), (5), (6), (7) and (8), or that the manager or agent intended to conduct the pub brewery business on the applicant's behalf does not meet such requirements, or that such co-partners, officials, stockholders, agents or managers remain undisclosed.

SECTION 14. Section 19E of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) For the purpose of encouraging the development of domestic farms, the commission shall issue a farmer-distillery license to an applicant who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth and to applying partnerships composed solely of such individuals, and to applying corporations organized under the laws of the commonwealth or organized under the laws of any other state of the United States and admitted to do business in the commonwealth, unless:—

(1) such person does not comply with reasonable application procedures required by the commission;

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

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

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

(5) the commission determines that the applicant retains or owns an interest, directly or indirectly, in more than 1 business licensed under section 18;

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

(7) the commission determines that the co-partners, corporate officials or stockholders of the applicant do not meet the requirements of paragraphs (2), (4) and (5) or that the agent or manager who intends to conduct the farmer-distillery business on the applicant's behalf does not meet the requirements or that the co-partners, officials, stockholders, agent or manager remain undisclosed.

SECTION 15. Section 19G of said chapter 138, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) The commission may issue a tenant brewer license which authorizes the licensee to manufacture or package malt beverages on the premises of a host brewer to any individual applicant who holds a social security number or individual taxpayer identification number and is a resident of the commonwealth or to a corporation, partnership or other entity which complies with the requirements of section 26 and is a holder of a certificate of compliance issued pursuant to section 18B. An applicant for a tenant brewer license shall provide the commission and the department of revenue with a true copy of the applicable alcoholic beverage license to manufacture, export and import as issued by the appropriate licensing authority.

To be eligible for a tenant brewer license, the applicant shall: (i) be licensed pursuant to section 19 or section 19C or a license holder outside the commonwealth that is authorized to manufacture, export and import malt beverages; (ii) comply with any federal law regulating the manufacture, export or import of malt beverages as identified by the commission in a written guidance that shall be issued to each host brewer, tenant brewer and wholesaler licensed pursuant to section 18; and (iii) shall have an approved alternating proprietorship arrangement that allows the applicant to use the facilities, equipment and employees of a host brewer.

A tenant brewer may import such raw materials as are required solely for the production and packaging of the malt beverages including, without limitation, bulk malt beverages produced by the tenant brewer at its brewery of origin. The bulk malt beverages imported by the tenant brewer shall be packaged and shipped back to the tenant brewer's brewery of origin or to a wholesaler licensed pursuant to section 18 or to a license holder outside the commonwealth authorized to import malt beverages designated by the tenant brewer within 10 days after receipt by the host brewer.

Any product produced or packaged at the host brewer's premises shall be removed from the host brewer's premises within 10 days after the brewing or packaging process is completed. The finished product shall be returned to the tenant brewer's brewery of origin or to a wholesaler licensed pursuant to section 18 or to a license holder outside the commonwealth authorized to import malt beverages designated by the tenant brewer.

SECTION 16. Said chapter 138 is hereby amended by striking out section 26, as so appearing, and inserting in place thereof the following section:—

289 Section 26. No license for the sale of alcoholic beverages or alcohol and no vehicle
290 permit for the transportation thereof shall be issued to any person who does not, at the time of the
291 person's application therefor, hold a social security number or individual taxpayer identification
292 number, or to any agent of any such person, and no person who does not hold a social security
293 number or individual taxpayer identification number shall be appointed as manager or other
294 principal representative of any licensee; provided, that nothing herein shall prevent the granting
295 of a license under section eighteen A to any corporation organized under the laws of a foreign
296 country or the granting of a vehicle permit to such a corporation so licensed.

297 No corporation, organized under the laws of the commonwealth or of any other state or
298 foreign country, shall be given a license to sell in any manner any alcoholic beverages unless
299 such corporation shall have first appointed, in such manner as the licensing authorities by
300 regulation prescribe, as manager or other principal representative, a holder of a social security
301 number or individual taxpayer identification number, and shall have vested in the manager or
302 other principal representative by properly authorized and executed written delegation as full
303 authority and control of the premises, described in the license of such corporation, and of the
304 conduct of all business therein relative to alcoholic beverages as the licensee itself could in any
305 way have and exercise if it were a natural person resident in the commonwealth, nor unless such
306 manager or representative is, with respect to the manager or representative's character,
307 satisfactory to the licensing authorities.

308 No provision of this chapter shall impair any right growing out of any treaty to which the
309 United States is a party.