

# SENATE . . . . . No. 2867

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## The Commonwealth of Massachusetts

PRESENTED BY:

*James B. Eldridge*

*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:

*James B. Eldridge*  
*Danillo A. Sena*

DISTRICT/ADDRESS:

*Middlesex and Worcester*  
*37th Middlesex*

# SENATE . . . . . No. 2867

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 2867) (subject to Joint Rule 12) of James B. Eldridge and Danillo A. Sena for legislation to enhance diversity in the awarding of liquor licenses. Consumer Protection and Professional Licensure.

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## The Commonwealth of Massachusetts

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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:- or for the purposes of chapter 138 an individual taxpayer identification  
4   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:- or individual taxpayer  
7   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:- or individual taxpayer  
10   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:-

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

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

75           (a) The commission may issue to an individual who holds a social security number or  
76 individual taxpayer identification number and is a resident of the commonwealth or to a

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

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

97 (a) The commission may issue to any individual who holds a social security number or  
98 individual taxpayer identification number and is a resident of the commonwealth and to  
99 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 provided, further, that sale of wines and malt beverages may be made in kegs, casks or barrels by any manufacturer licensed under this section to licensees authorized to sell such beverages under section twelve, thirteen or fourteen and, for the sole purpose of resale in the containers in which

123 the same were delivered, to licensees under section fifteen. No licensee under section fifteen  
124 shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such  
125 containers.

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

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

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

142 SECTION 10. Section 19A of said chapter 138, as so appearing, is hereby amended by  
143 striking out, in line 2, the word "citizens" and inserting in place thereof the following word:-  
144 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

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

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

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

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

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

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

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

202 (a) The commission shall issue a pub brewery license to an applicant who holds a social  
203 security number or individual taxpayer identification number and is a resident of the  
204 commonwealth and to applying partnerships and to applying corporations organized under the  
205 laws of the commonwealth or organized under the laws of any other state and admitted to do  
206 business in the commonwealth and to applying limited liability companies or limited liability  
207 partnerships organized under the laws of the commonwealth unless:

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

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

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

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

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

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

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

228           (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:—

Section 26. No license for the sale of alcoholic beverages or alcohol and no vehicle permit for the transportation thereof shall be issued to any person who does not, at the time of the person's application therefor, hold a social security number or individual taxpayer identification number, or to any agent of any such person, and no person who does not hold a social security number or individual taxpayer identification number shall be appointed as manager or other

principal representative of any licensee; provided, that nothing herein shall prevent the granting of a license under section eighteen A to any corporation organized under the laws of a foreign country or the granting of a vehicle permit to such a corporation so licensed.

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

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