

SENATE No. 2871

The Commonwealth of Massachusetts

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

SENATE, May 9, 2022.

The committee on Consumer Protection and Professional Licensure, to whom was referred the petition (accompanied by bill, Senate, No. 247) of John C. Velis, Brian W. Murray and Anne M. Gobi for legislation to promote economic recovery for restaurants and bars, reports the accompanying bill (Senate, No. 2871).

For the committee,
Susan L. Moran

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An Act to facilitate outdoor dining.

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. The first paragraph of section 12 of chapter 138 of the General Laws, as
2 appearing in the 2020 Official Edition, is hereby amended by inserting after the fourth sentence
3 the following sentence:- A licensing authority may authorize a licensee to serve alcoholic
4 beverages on non-contiguous premises as the authority may deem reasonable and proper, and
5 approve in writing; subject to the guidelines set by the commission.

6 SECTION 2. Chapter 138 of the General Laws, as so appearing, is hereby amended by
7 inserting after section 15A the following section:-

8 Section 15A 1/2. Notwithstanding the second paragraph of section 15A, an applicant for
9 an original license under section 12 for a change in the description of a licensed premises to
10 include outdoor seating or expand outdoor seating only, shall file its application in paper or
11 electronically to the local licensing authority and the local licensing authority shall post within
12 24 hours on its website that there is an applicant desiring to change description and said posting
13 shall serve as notice to the public. The applicant shall provide an in-person or automated

14 telephone call, electronic mail or provide a paper notice by hand delivery within 24 hours of
15 application to any school, which gives not less than the minimum instruction and training to
16 children of compulsory school age required by chapter 71, or church or hospital that is located
17 within a radius of 500 feet from said premises. The notice sent to such school, church or hospital
18 shall indicate the necessity of a written objection to prevent the issuance or transfer of such
19 license under the provisions of section 16C. The applicants shall provide an in-person or
20 automated telephone call, electronic mail or paper notice by any means to all abutters within two
21 hundred feet of the applicant within 24 hours of application. Nothing in this section shall
22 preclude either the local licensing authority and the applicant from also posting notice on any
23 social media platform or public or private websites to serve as additional notice to the public of a
24 public hearing. An affidavit of the applicant providing the notice together with an attested copy
25 of completion of notification including the method of disclosure used in paper or electronic form
26 to the office of the local licensing authorities, and a certified copy of such affidavit shall be
27 prima facie evidence that such notice is in compliance with this section.

28 The local licensing authority shall hold a public hearing within 5 business days after the
29 receipt of completion of notification of delivery of notice by the applicant or receipt of an
30 affidavit that none of the notice requirements are applicable. The local licensing authority shall
31 be authorized to render a decision the same day as the public hearing; provided however, the
32 local licensing authority must render a decision within 48 hours after the completion of the
33 public hearing. The relevant municipality may require other approvals or licensing. Nothing
34 herein shall be construed to limit the municipality from having such additional processes.

35 Nothing herein contained shall be construed to prohibit a licensee whose license has been
36 cancelled by the local licensing authorities under authority contained in this section from

37 appealing to the commission as provided in section 67. The local licensing authority shall submit
38 its decision, the applicant's application, and all supporting documentation within 24 hours in
39 paper or electronically to the commission.

40 The commission shall take receipt of the local licensing authority decision and
41 applicant's application in paper or electronic form and if the applicant is compliance with the law
42 and commission's regulations and guidelines, shall approve decision within 24 hours of receipt
43 and those not in compliance shall be rejected; provided that, if in the judgement of the
44 commission that the application can be remedied in a timely manner not to exceed 30 days a
45 provisional license shall be issue subject to completion of the remedy by a date set by the
46 commission; and provided that, should an applicant be rejected, said applicant shall be informed
47 of the reason for the rejection and be given 48 hours be in compliance for approval. In lieu of an
48 in-person site visit by an investigator, an investigator may conduct an inspection through Internet
49 video streaming, photographs or websites providing sufficient detail maps of the applicant's
50 address and proposed outdoor boundaries. An approval by the commission does not preclude the
51 commission from conducting in-person site visits and further review in the future and taking
52 appropriate action to enforce compliance.

53 SECTION 3. (a) There shall be a special commission to examine permanent reforms to
54 further enable outdoor dining in the commonwealth. The commission shall consist of the
55 following 13 members: the chairs of the joint committee on consumer protection and
56 professional licensure, or designees, who shall serve as chairs; the commission chair of the
57 alcoholic beverages control commission, or a designee; the commissioner of the division of
58 occupational licensure, or a designee; 1 member appointed by the Massachusetts Restaurant
59 Association; 1 member appointed by the Massachusetts Municipal Association; 1 member

60 appointed by the Disability Law Center; and 2 members appointed by the senate president, 2
61 members appointed by the speaker of the house, 1 member appointed by the senate minority
62 leader, and 1 member appointed by the house minority leader, with roles in municipal
63 management or economic development from geographic regions throughout the commonwealth.
64 All appointments shall be made not later than 30 days after the effective date of this section.
65 Members of the commission shall serve without compensation.

66 (b) The commission shall review outdoor dining requirements and infrastructure needs.
67 The commission shall make recommendations to modify licensure requirements including, but
68 not limited to: (i) streamlining licensure requirements where appropriate; (ii) improving
69 application and renewal processes; and (iii) maintaining community input. The commission shall
70 further make requirements on infrastructure needs including, but not limited to: (i) additional
71 needs related to building code compliance and compliance review; (ii) best methods to aid
72 businesses and municipalities to transition facilities and spaces to accommodate additional
73 outdoor dining demand; (iii) improving disability accessibility; and (iv) easing compliance and
74 training associated with disability accessibility requirements.

75 (c) The commission shall meet not less 4 times.

76 (d) No later than October 13, 2022, the commission shall submit a report and
77 recommendations, if any, together with drafts of legislation necessary to carry those
78 recommendations into effect by filing the same with the clerks of the house of representatives
79 and the senate, the house and senate committees on ways and means, and the joint committee on
80 consumer protection and professional licensure.