

SENATE No. 162

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

DISTRICT/ADDRESS:

Middlesex and Worcester

SENATE No. 162

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 162) of James B. Eldridge for legislation to enhance diversity in the awarding of liquor licenses. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2867 OF 2021-2022.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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 appearing in the 2020
2 Official Edition, is hereby amended by inserting after the word "number", in line 4, the following
3 words:- or for the purposes of chapter 138 an individual taxpayer identification number.

4 SECTION 2. Said section 13A of said chapter 30A, as so appearing, is hereby further
5 amended by inserting after the word "number", in lines 5, 7, the second time it appears, and 10,
6 the following words:- or individual taxpayer identification number.

7 SECTION 3. Section 15 of chapter 138 of the General Laws, as so appearing, is hereby
8 amended by striking out the first sentence and inserting in place thereof the following sentence:-

9 The local licensing authorities in any city or town which votes to authorize the granting
10 of licenses for the sale of all alcoholic beverages, and such authorities in any city or town which
11 votes to authorize the granting of licenses for the sale of wines and malt beverages only, may
12 grant licenses for the sale at retail of such alcoholic beverages or wines and malt beverages, as
13 the case may be, not to be drunk on the premises, to applicants therefor who hold a valid social
14 security number or individual taxpayer identification number and are residents of the
15 commonwealth, or partnerships composed solely of such individuals that hold a valid social
16 security number or individual taxpayer identification number and are residents or to corporations
17 organized under the laws of the commonwealth and whereof all directors shall hold a social
18 security number or individual taxpayer identification number and a majority residents of the
19 commonwealth or to limited liability companies or limited liability partnerships organized under
20 the laws of the commonwealth, subject to such conditions as the commission may prescribe by
21 regulation to address issues of residency and the requirements for a manager or principal
22 representative of a non-citizen licensee under section 26 as qualifications for a limited liability
23 company or limited liability partnership to hold a license pursuant to this section and sections 18,
24 18A, 19, 19B and 19C, or to an applicant licensed to operate as a farmer-winery under said
25 section 19B or in any other state.

26 SECTION 4. Section 18 of said chapter 138, as so appearing, is hereby amended by
27 striking out the first sentence and inserting in place thereof the following sentence:-

28 The commission may issue to any individual who holds a social security number or
29 individual taxpayer identification number and is a resident of the commonwealth, and to any ship
30 chandler licensed under the provisions of section thirteen and to partnerships composed solely of
31 such individuals, and to corporations organized under the laws of the commonwealth whereof all

32 the directors hold a valid social security number or individual taxpayer identification number and
33 a majority thereof residents of the commonwealth and to limited liability companies and limited
34 liability partnerships organized under the laws of the commonwealth, subject to such conditions
35 as the commission may prescribe by regulation to address issues of residency and the
36 requirements for a manager or principal representative of a non-citizen licensee under section 26
37 as qualifications for a limited liability company or limited liability partnership to hold a license
38 pursuant to this section and sections 15, 18A, 19, 19B and 19C, licenses as wholesalers and
39 importers (1) to sell for resale to other licensees under this chapter alcoholic beverages
40 manufactured by any manufacturer licensed under the provisions of section nineteen and to
41 import alcoholic beverages into the commonwealth from holders of certificates issued under
42 section eighteen B whose licensed premises are located in other states and foreign countries for
43 sale to such licensees, or (2) to sell for resale wines and malt beverages so manufactured to such
44 licensees and to import as aforesaid wines and malt beverages for sale to such licensees.

45 SECTION 5. Section 18A of said chapter 138, as so appearing, is hereby amended by
46 striking out the first paragraph and inserting in place thereof the following paragraph:-

47 The commission may issue to any individual who holds a social security number or
48 individual taxpayer identification number and is a resident of the commonwealth, or to any
49 partnership composed solely of such individuals, or to any corporation organized under the laws
50 of the commonwealth or organized under the laws of any other state of the United States or of
51 any foreign country and admitted to do business in the commonwealth or to a limited liability
52 company or a limited liability partnership organized under the laws of the commonwealth,
53 subject to such conditions as the commission may prescribe by regulation to address issues of
54 residency and the requirements for a manager or principal representative of a non-citizen

55 licensee under section 26 as qualifications for a limited liability company or limited liability
56 partnership to hold a license pursuant to this section and sections 15, 18, 19, 19B and 19C, a
57 license which shall authorize the licensee to act as agent, broker or solicitor for any specified
58 individual, corporation or partnership in another state or foreign country engaged in the business
59 of manufacturing, importing or selling alcoholic beverages, hereinafter called the principal, and,
60 on behalf of such principal, to solicit orders for such beverages from holders of licenses under
61 section eighteen only. A license granted hereunder shall authorize representation of one principal
62 only, but the licensee may also, in the discretion of the commission, be licensed hereunder to
63 represent other principals. No licensee hereunder shall buy or sell alcoholic beverages for his
64 own account, and no such beverages shall be brought into the commonwealth in pursuance of the
65 exercise of such a license otherwise than through a licensee under said section eighteen.

66 SECTION 6. Section 18C of said chapter 138, as so appearing, is hereby amended by
67 striking out subsection (a) and inserting in place thereof the following subsection:-

68 (a) The commission may issue to an individual who holds a social security number or
69 individual taxpayer identification number and is a resident of the commonwealth or to a
70 corporation organized under the laws of the commonwealth whose directors are all holders of a
71 social security number or individual taxpayer identification number and a majority of them
72 residents of the commonwealth, or to a limited liability company or limited liability partnership
73 organized under the laws of the commonwealth whose members are all holders of a social
74 security number or individual taxpayer identification number and a majority of them residents of
75 the commonwealth, a license to import alcoholic beverages into the commonwealth for use only
76 in connection with the manufacture of food products, including ice cream. Nothing in this section
77 shall authorize the holder of an importer's license issued under this section to sell alcoholic

78 beverages as he is licensed to import only, or to export alcoholic beverages from the
79 commonwealth into any other state or into a foreign country. A vote in a city or town pursuant to
80 section 11 shall not prevent the granting or renewal of a license under this section. All alcoholic
81 beverages purchased by a licensee under this section, and all alcoholic beverages shipped into
82 the commonwealth pursuant to any such purchase, shall be warehoused at the warehouse
83 facilities of the licensee and held in his physical possession at the warehouse. An importer under
84 this section shall keep such records as the commission may prescribe and shall file with the
85 commission, as often as it may require, duplicates or copies of those records. The commission
86 shall have, at all times through its designated officers or agents, access to all books, records and
87 other documents of each licensed importer relating to the licensee's importer business.

88 SECTION 7. Section 19 of said chapter 138, as so appearing, is hereby amended by
89 striking out subsection (a) and inserting in place thereof the following subsection:-

90 (a) The commission may issue to any individual who holds a social security number or
91 individual taxpayer identification number and is a resident of the commonwealth and to
92 partnerships, composed solely of such individuals, and to corporations organized under the laws
93 of this commonwealth or organized under the laws of any other state of the United States and
94 admitted to do business in this commonwealth and to limited liability companies and limited
95 liability partnerships organized under the laws of the commonwealth, subject to such conditions
96 as the commission may prescribe by regulation to address issues of residency and the need for a
97 license manager under section 26 as qualifications for a limited liability company or limited
98 liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19B and
99 19C, licenses to manufacture alcoholic beverages. Manufacturers of such beverages may sell the
100 same to any licensee holding a valid license granted by the licensing authorities for the sale

101 within the commonwealth in accordance with the provisions of this chapter, and may also sell
102 such beverages for export from this commonwealth into any state where the sale of the same is
103 not by law prohibited, and into any foreign country; and manufacturers of such beverages may
104 sell the same to any registered pharmacist holding a certificate of fitness under section thirty and
105 also as authorized by section twenty-eight.

106 Subject to such regulations as may be prescribed by the commission, licensees under this
107 section may rectify or blend, but only upon such premises and under such conditions as the
108 commission shall approve, alcoholic beverages manufactured by them. All alcoholic beverages
109 sold by any manufacturer thereof shall be sold and delivered in such manner, and under such
110 conditions, and with such labels or other marks to identify the manufacturer, as the commission
111 shall from time to time prescribe by regulations; provided, that sales of such beverages may be
112 made in kegs, casks, barrels or bottles, to holders of wholesalers' and importers' licenses; and
113 provided, further, that sale of wines and malt beverages may be made in kegs, casks or barrels by
114 any manufacturer licensed under this section to licensees authorized to sell such beverages under
115 section twelve, thirteen or fourteen and, for the sole purpose of resale in the containers in which
116 the same were delivered, to licensees under section fifteen. No licensee under section fifteen
117 shall resell beverages delivered to him in kegs, casks or barrels under this section, except in such
118 containers.

119 Every licensed manufacturer of alcoholic beverages shall keep such records in such detail
120 and affording such information as the commission may from time to time prescribe, and shall file
121 with the commission, whenever and as often as it may require, duplicates of copies of such
122 records; and the commission shall at all times, through its designated officers or agents, have

123 access to all books, records and other documents of every licensed manufacturer relating to the
124 business which he is licensed hereunder to conduct.

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

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

135 SECTION 8. Section 19A of said chapter 138, as so appearing, is hereby amended by
136 striking out, in line 2, the word "citizens" and inserting in place thereof the following word:-
137 residents.

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

140 (a) For the purpose of encouraging the development of domestic vineyards, the
141 commission shall issue a farmer-winery license to any applicant who holds a social security
142 number or individual taxpayer identification number and is a resident of the commonwealth, and
143 to applying partnerships composed solely of such individuals, and to applying corporations
144 organized under the laws of the commonwealth or organized under the laws of any other state of

145 the United States and admitted to do business in this commonwealth and to applying limited
146 liability companies and limited liability partnerships organized under the laws of the
147 commonwealth, subject to such conditions as the commission may prescribe by regulation to
148 address issues of residency and the need for a license manager under section 26 as qualifications
149 for a limited liability company or limited liability partnership to hold a license pursuant to this
150 section and sections 15, 18, 18A, 19 and 19C, unless:

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

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

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

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

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

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

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

166 SECTION 10. Section 19C of said chapter 138, as so appearing, is hereby amended by
167 striking out subsection (a) and inserting in place thereof the following subsection:-

168 (a) For the purpose of encouraging the development of domestic farms, the commission
169 shall issue a farmer-brewery license to any applicant who holds a social security number or
170 individual taxpayer identification number and is a resident of the commonwealth and to applying
171 partnerships composed solely of such individuals, and to applying corporations organized under
172 the laws of the commonwealth or organized under the laws of any other state of the United States
173 and admitted to do business in the commonwealth and to applying limited liability companies
174 and limited liability partnerships organized under the laws of the commonwealth, subject to such
175 conditions as the commission may prescribe by regulation to address issues of residency and the
176 need for a license manager under section 26 as qualifications for a limited liability company or
177 limited liability partnership to hold a license pursuant to this section and sections 15, 18, 18A, 19
178 and 19B, unless: (1) such person does not comply with reasonable application procedures
179 required by the commission; or

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

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

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

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

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

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

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

195 (a) The commission shall issue a pub brewery license to an applicant who holds a social
196 security number or individual taxpayer identification number and is a resident of the
197 commonwealth and to applying partnerships and to applying corporations organized under the
198 laws of the commonwealth or organized under the laws of any other state and admitted to do
199 business in the commonwealth and to applying limited liability companies or limited liability
200 partnerships organized under the laws of the commonwealth unless:

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

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

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

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

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

213 (6) the commission determines that the applicant retains or owns an interest, directly or
214 indirectly, in any activity or in any business directly or indirectly engaged in the business of
215 manufacturing any alcoholic beverages either within or outside of the commonwealth, except
216 any interest, directly or indirectly, in a pub brewery license under this section or any business
217 which would be licensed as a pub brewery under this section if it were located within the
218 commonwealth;

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

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

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

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

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

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

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

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

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

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

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

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

248 meet the requirements or that the co-partners, officials, stockholders, agent or manager remain
249 undisclosed.

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

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

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

267 A tenant brewer may import such raw materials as are required solely for the production
268 and packaging of the malt beverages including, without limitation, bulk malt beverages produced
269 by the tenant brewer at its brewery of origin. The bulk malt beverages imported by the tenant

270 brewer shall be packaged and shipped back to the tenant brewer's brewery of origin or to a
271 wholesaler licensed pursuant to section 18 or to a license holder outside the commonwealth
272 authorized to import malt beverages designated by the tenant brewer within 10 days after receipt
273 by the host brewer.

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

279 SECTION 14. Said chapter 138 is hereby amended by striking out section 26, as so
280 appearing, and inserting in place thereof the following section:-

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

289 No corporation, organized under the laws of the commonwealth or of any other state or
290 foreign country, shall be given a license to sell in any manner any alcoholic beverages unless
291 such corporation shall have first appointed, in such manner as the licensing authorities by

292 regulation prescribe, as manager or other principal representative, a holder of a social security
293 number or individual taxpayer identification number, and shall have vested in the manager or
294 other principal representative by properly authorized and executed written delegation as full
295 authority and control of the premises, described in the license of such corporation, and of the
296 conduct of all business therein relative to alcoholic beverages as the licensee itself could in any
297 way have and exercise if it were a natural person resident in the commonwealth, nor unless such
298 manager or representative is, with respect to the manager or representative's character,
299 satisfactory to the licensing authorities.

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