

SENATE No. 400

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 passage of the accompanying bill:

An Act to expand the sale of products by farmer-wineries, farmer-breweries, and farmer-distilleries.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	Middlesex and Worcester
David M. Torrisi	14th Essex
Jennifer L. Flanagan	Worcester and Middlesex
Susan C. Fargo	Third Middlesex
Jennifer M. Callahan	18th Worcester
William Smitty Pignatelli	4th Berkshire
Gale D. Candaras	First Hampden and Hampshire

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO EXPAND THE SALE OF PRODUCTS BY FARMER-WINERIES, FARMER-BREWERIES, AND FARMER-DISTILLERIES.

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 1A of Chapter 128 is hereby amended by adding in the first
2 sentence after the words “growing and harvesting of any agricultural, aquacultural, floricultural
3 or horticultural commodities” the following:-

4 “including fruit or any other agricultural commodity used in the production of cider, wine, spirits or beer,

5 SECTION 2. Section 12 of Chapter 138 of the general laws is hereby amended by adding
6 at the end thereof the following:-

7 “The local licensing authorities of any city or town wherein the granting of licenses under this
8 section to sell alcoholic beverages or only wines and/or malt beverages, as the case may be, is
9 authorized, to issue to any applicant who is licensed in this or any other state as a wine producer,
10 beer producer or distilled spirits producer, a license to sell spirits, wine and/or beer to travelers,
11 strangers and other patrons and customers not under twenty-one years of age to be served and
12 consumed on premises provided that the premises to be licensed are actively engaged in farming
13 and the farming premises are under the control of the applicant. Provided further, that a license

14 issued under this section to a wine, beer or distilled spirits producer shall be limited to the sale of
15 wine, malt beverage or alcoholic beverage produced by the applicant on the farm premises to be
16 licensed. The license shall be subject to such other restrictions as the local licensing authority
17 may deem reasonable and proper. For purposes of this section, the words “ farm” and “farming”
18 are defined by Chapter 128, Section 1A.”

19 SECTION 3. Section 15 of Chapter 138 is hereby amended by adding at the end of the
20 first sentence after the words “hold a license pursuant to this section and sections 18, 18A, 19,
21 19B, and 19C” the following:-

22 “or to applicants who are licensed in this or any other state as a wine producer, beer producer or
23 distilled spirits producer provided further that with respect to a license issued under this section
24 to a wine producer, beer producer or distilled spirits producer, such retail sales of wine, beer or
25 spirits shall be limited to the sale of alcohol, wine or beer produced by applicant. Provided
26 further that the local licensing authority shall stipulate the premises and times covered by the
27 license as well as any other restrictions deemed reasonable. The commission may promulgate
28 rules and regulations necessary to effectuate its alcohol oversight, licensing and enforcement
29 purposes under this chapter”;

30 And said section 15 of Chapter 138 is further amended by adding in the second sentence of the
31 second paragraph after the words, “and upon each annual renewal of licenses under this section,
32 the amount of the license fee” the following:-

33 “and nothing shall prohibit the local licensing authority from establishing reduced fees for
34 limited licenses issued to applicants who are licensed in this or any other state as a wine

35 producer, beer producer or distilled spirits producer and who apply for a permit under this
36 section for the limited sale of alcohol, wine or beer produced by the applicant.”

37 SECTION 4. Chapter 138 of the general laws is hereby amended by inserting after
38 section 15E the following new section:-

39 “Section 15F. Notwithstanding any other provision of Chapter 138, in any city or town wherein
40 the granting of licenses to sell wines, malt beverages or alcoholic beverages is authorized under
41 this chapter, the local licensing authority may issue to any person currently licensed in this or
42 any other state as a wine producer, beer producer, or distilled spirits producer a special license
43 for the sale of wine, beer or spirits produced by the person so licensed in sealed containers for
44 off-premise consumption at State Fair, County Fair, and recognized farmers’ market operated on
45 a not-for-profit basis to individuals that are at least 21 years of age. The special permit shall
46 stipulate the premises and times covered as well as any other restrictions imposed by the local
47 authority. A licensee under this section may provide, without charge, samples of wine, beer, or
48 spirits to prospective customers at the State Fair, county Fair, and recognized farmer’s market;
49 provided , however, that no single serving of wine shall exceed one ounce, no single serving of
50 malt beverages shall exceed two ounces and no single service of liqueurs, cordial or spirits shall
51 exceed ¼ of an ounce. All samples of wine, beer or spirits shall be served by an agent,
52 representative, or solicitor of the person currently licensed in this or any other state to individuals
53 that are at least 21 years of age and all samples must be consumed in the presence of the agent,
54 representative, or solicitor from the farm winery. The local licensing authority may charge a fee
55 for each such permit but such charge or fee shall not exceed fifty dollars. The commission may
56 promulgate rules and regulations necessary to effectuate its alcohol oversight, licensing and
57 enforcement purposes under this chapter. “

58 SECTION 5. Section 17 of Chapter 138 is hereby amended by adding at the end
59 thereof the following:-

60 “Notwithstanding anything contained in this section to the contrary, a city or town may grant
61 licenses under sections twelve and fifteen to any applicant who is licensed in this or any other
62 state as a wine producer, beer producer or distilled spirits producer. Any license issued by a city
63 or town under section twelve or fifteen to a wine producer, beer producer or distilled spirits
64 producer shall not be counted as a license for purposes of determining the number of licenses
65 allowed to be issued by a city or town under the provisions of this Section 17. Any license
66 granted pursuant to this paragraph shall be nontransferable to any other person, corporation or
67 organization and shall be clearly marked nontransferable on the face of the license and shall be
68 limited to the sale of wine, beer or spirits produced by the person licensed in this or any other
69 state as a wine producer, beer producer or distilled spirits producer”

70 SECTION 6. Section 19B(g) of Chapter 138 of the general laws is hereby amended by
71 adding after the words “(4) at wholesale to a person in any foreign country” the following:-

72 “(5) at retail by the bottle to consumers, for consumption off the winery premises in accordance
73 with a license issued under section 15 or 15F.

74 (6) at retail by the glass or bottle wines to be consumed on the premises pursuant to a license
75 issued by local authority pursuant to section 12.”

76 SECTION 7. Section 19B(h) of Chapter 138 of the general laws is hereby amended in
77 the second sentence by adding after the words “all retail sales” the following:-

78 “under this Section 19B”;

79 and the same subsection 19B(h) of Chapter 138 is further amended by adding at the end thereof
80 the following:-

81 “However, a winegrower may obtain additional licenses for the sale of wine to consumers at
82 additional locations off of the winery premises at such locations authorized by a license issued
83 pursuant to section 15 and 15F.”

84 SECTION 8. Section 19C(g) of Chapter 138: (g) by adding at the end thereof after the
85 words: “(9) at wholesale to any person in any foreign country” the following:-

86 “(10) at retail by the bottle to consumers, for consumption off the winery premises in accordance
87 with a license issued under section 15 or 15F.

88 (11) at retail by the glass or bottle wines to be consumed on the premises pursuant to a license
89 issued by local authority pursuant to section 12.”

90 SECTION. Section 19C(h) Chapter 138 is amended by adding at the end thereof the
91 following:-

92 “However, a farmer-brewer may obtain additional licenses for the sale of malt beverages to
93 consumers at additional locations off of the winery premises at such locations authorized by a
94 license issued pursuant to section 15 and 15F.”

95 SECTION 10. Section 19E(i) of Chapter 138 is hereby amended in the second
96 sentence, after the words “All retail sales” by adding the following:

97 “under this Section 19E”;

98 And said Section 19E(i) is further amended by adding at the end thereof the following:

99 “However, a farmer-distiller may obtain additional licenses for the sale of spirits to consumers at
100 additional locations off of the winery premises at such locations authorized by a license issued
101 pursuant to section 15 and 15F.”

102 SECTION 11. Section 19E(h) is hereby amended by adding at the end thereof after the
103 following:

104 “(10) at retail by the bottle to consumers, for consumption off the winery premises in accordance
105 with a license issued under section 15 or 15F.

106 (11) at retail by the glass or bottle wines to be consumed on the premises pursuant to a license
107 issued by local authority pursuant to section 12.”