SENATE DOCKET, NO. 1118 FILED ON: 1/18/2013

SENATE . . . . . No. 97

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:

An Act to expand the sale of products by farmer breweries.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James B. Eldridge	*Middlesex and Worcester*
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*
Mary S. Keefe	*15th Worcester*
Danielle W. Gregoire	*4th Middlesex*
Anne M. Gobi	*5th Worcester*
William Smitty Pignatelli	*4th Berkshire*
Anthony W. Petruccelli	*First Suffolk and Middlesex*
Aaron Vega	*5th Hampden*
Denise Provost	*27th Middlesex*
Richard J. Ross	*Norfolk, Bristol and Middlesex*
James Arciero	*2nd Middlesex*

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By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 97) of James B. Eldridge, Benjamin B. Downing, Mary S. Keefe, Danielle W. Gregoire and other members of the General Court for legislation to expand the sale of products by farmer breweries. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

An Act to expand the sale of products by farmer breweries.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 12 of chapter 138 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the words "farmer-winery license under section 19B or from any other state" in lines 65-66 the following words:- or a farmer-brewery license under section 19C or from any other state,

SECTION 2. Said section 12 of said chapter 138, as so appearing, is hereby further amended by inserting after the words "such wine" in line 68 the following words:- or beer

SECTION 3. Said section 12 of said chapter 138, as so appearing, is hereby further amended by inserting after the words "premises of the winery" in line 68 the following words:- or brewery

SECTION 4. Section 15 of said chapter 138, as so appearing, is hereby amended by inserting after the words "farmer-winery under said section 19B or in any other state" in line 19 the following words:- or a farmer-brewery under said section 19C or in any other state

SECTION 5. Said chapter 138 is hereby amended after Section 15F by inserting the following additional section:-

Section 15G. Notwithstanding any other provision of chapter 138, in any city or town wherein the granting of licenses to sell beer is authorized under this chapter, the local licensing authority may issue to an applicant authorized to operate a farmer-brewery under section 19C or in any other state a special license for the sale of beer produced by or for the licensee in sealed bottles for off-premise consumption at an indoor or outdoor agricultural event, provided that such producer does not exceed six million barrels of malt beverages. All sales of beer shall be conducted by an agent, representative, or solicitor of the licensee to customers who are at least

22 21 years of age. A licensee under this section may provide, without charge, samples of beer to
23 prospective customers at an indoor or outdoor agricultural event. All samples of beer shall be
24 served by an agent, representative, or solicitor of the licensee to individuals who are at least 21
25 years of age and all samples shall be consumed in the presence of such agent, representative, or
26 solicitor of the licensee; provided, however, that no sample shall exceed one (1) ounce of beer
27 and no more than 5 samples shall be served to an individual prospective customer. For the
28 purposes of this section, the term "agricultural event" shall be limited to those events certified by
29 the department of agricultural resources as set forth in this section.

30 An applicant for a special license under this section shall first submit a plan to the
31 department of agricultural resources that shall demonstrate that the event is an agricultural event.
32 The plan shall include a description of the event, the date, time and location of the event, a copy
33 of the operational guidelines or rules for the event, written approval that the prospective licensee
34 has been approved as a vendor at the event, including the name and contact information of the
35 on-site manager, and a plan depicting the premises and the specific location where the license
36 will be exercised.

37 Upon review of the plan, the department may certify that the event is an agricultural
38 event; provided, however, that in making that determination the department shall consider the
39 following factors: (i) operation as a farmers' market or agricultural fair approved or inspected by
40 the department; (ii) frequency and regularity of the event, including dates, times and locations;
41 (iii) number of vendors; (iv) terms of vendor agreements; (v) presence of an on-site manager;
42 (vi) training of the on-site manager; (vii) operational guidelines or rules, which shall include
43 vendor eligibility and produce source; (viii) focus of event on local agricultural products grown
44 or produced within the market area; (ix) types of shows or exhibits, including those which are
45 described in clause (f) of the first paragraph of section 2 of chapter 128; and (xi) sponsorship or
46 operation by an agricultural or horticultural society organized under the laws of the
47 commonwealth, or by a local grange organization and/or association whose primary purpose is
48 the promotion of agriculture and its allied industries. The department of agricultural resources
49 may promulgate rules and regulations necessary for the operation, oversight, approval, and
50 inspection of agricultural events under this section.

51 An applicant for a license under this section shall file with the local licensing authority
52 along with its application proof of certification from the department of agricultural resources that
53 the event is an agricultural event. A special license under this section shall designate the specific
54 premises, and dates and times covered. A special license may be granted for an indoor or outdoor
55 agricultural event which takes place on multiple dates and/or times during a single calendar year
56 but no special license shall be granted for an agricultural event that will not take place within 1
57 calendar year. The special license shall be displayed conspicuously by the licensee at the
58 licensed premises. A copy of a special license granted by the local licensing authority shall be
59 submitted by the authority to the commission at least 7 days prior to the date the agricultural
60 event is first scheduled to begin. The local licensing authority may charge a fee for each special

61 license granted, but such fee shall not exceed fifty $50. A special license granted under this
62 section shall be nontransferable to any other person, corporation, or organization and shall be
63 clearly marked nontransferable on its face.

64 The commission may promulgate rules and regulations it deems appropriate to effectuate
65 the purposes of this section.

66 There shall be established an advisory committee to consist of 12 members, 1 of whom
67 shall be a representative of the Massachusetts Brewers Guild; 1 of whom shall be a
68 representative of the Massachusetts Alcoholic Beverages Control Commission; 1 of whom shall
69 be the commissioner of the department of agricultural resources, or a designee, who shall serve
70 as chair of the advisory committee; 2 of whom shall be the chairs of the joint committee on
71 environment, natural resources and agricultural, or their designees; 2 of whom shall be the chairs
72 of the joint committee on economic development and emerging technologies, or their designees;
73 1 of whom shall be a representative of the Massachusetts Farm Bureau Federation; 1 of whom
74 shall be a representative of the Federation of Massachusetts Farmers Markets; and 3 of whom
75 shall be representatives of licensed farmer-breweries under section 19C of said chapter 138. The
76 advisory committee shall study and develop standards to aid in the interpretation and definition
77 of farmer-brewer under section 19C of said chapter 138, with the goal of encouraging the
78 development of the state's domestic farms as well as the production and use of locally grown
79 ingredients for beer. This shall result in the recommendation of regulatory or legislative
80 changes, which may include but not be limited to standard requirements or goals for farmer-
81 breweries related to the growth of locally grown ingredients and the amount of barrel production.
82 The advisory committee shall also conduct a comprehensive review and evaluation of the
83 production of and ingredients used by existing farm-breweries throughout the Commonwealth.
84 The advisory committee shall submit its findings and recommendations to the clerks of the house
85 of representatives and senate, the Massachusetts Alcoholic Beverages Control Commission, and
86 the executive office of energy and environmental affairs no later than December 31, 2015.

87 SECTION 6. Section 17 of said chapter 138, as so appearing, is hereby amended by
88 inserting after the words "holder of a farmer-winery license under section 19B or in any other
89 state" in lines 164-165 the following words:- or a farmer brewery license under section 19C or in
90 any other state

91 SECTION 7. Section 17 of said chapter 138, as so appearing, is further amended by
92 inserting after the words "for the sale of wine" in line 165 the following words:- or beer

93 SECTION 8. Section 19C of said chapter 138, as so appearing, is hereby amended in
94 subsection (h) by striking the second sentence in lines 115-116 and inserting in place the
95 following words:-

96 All retail sales must be made on the brewery premises, except where a farmer-brewer
97 obtains additional licenses for the sale of malt beverages at additional locations off the brewery
98 premises at locations authorized by a license issued pursuant to section 15 and 15G.