



Massachusetts Package Stores Association, Inc.

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Tuesday, July 12, 2022

Rep. Aaron M. Michlewitz, Chair
House Committee on Ways & Means
State House
Room 237
Boston, MA 02133

Re: Report on Amendments to H5007 - An Act enabling partnerships for growth

Dear Chair Michlewitz, and Honorable Members of the House of Representatives,

The Massachusetts Package Stores Association (MassPack) represents locally owned beer, wine, and spirits retail stores across Massachusetts. MassPack and locally owned stores commend the work done by House to protect the citizens throughout the pandemic while also balancing many economic interests. This task has not been easy, and there is sincere gratitude for the leadership provided by state officials. Your continued approach of diligence and forethought benefits all of Massachusetts. This is the context to MassPack's insights and expertise concerning the impacts of several amendments to H5007 - An Act enabling partnerships for growth.

Of highest concern are **Amendment #148 - Direct Sale of Alcoholic Beverages for Off-Premises Consumption** and **Amendment #275 - Farmer-distilleries**

These strongly opposed additions to the Economic Development Bill have little to do with fiscal responsibility, but they do substantially disrupt and alter the balance within the three-tier system that regulates the alcoholic beverages industry. The state regulatory system is disrupted because these amendments intentionally usurp laws put in place to prevent vertical integration by alcohol producers who have historically acquired marketplace control when they gain direct access to retail. Vertical integration is where the supplier also becomes its own wholesaler, and retailer. This monopolization of a highly regulated product that has historically been abused is exactly what existing law prevents.

The proposed amendments are also harmful to the many locally owned stores that collectively employ over 19,000 individuals, generate over \$3 billion dollars in economic activity and help secure approximately \$100 million in excise taxes. These retailers are also gatekeepers against illegal sales. Home delivery direct from the supplier works around institutional safeguards relied upon by the state. How do you regulate what you don't know has been placed into the stream of commerce? The answer is you can't. Not without proper reporting requirements. Reporting is not currently a requirement in Massachusetts, which is why "Direct to Consumer" delivery from a supplier is an invitation for bad outcomes. Bad outcomes equate to overconsumption and minors gaining increased access to alcohol beverages. It is strongly recommended that these amendments not be approved.

- **Amendment #148** would allow alcoholic beverage manufacturers to sell alcoholic beverages in kegs, casks, barrels, cans, or bottles for consumption off their premises; and allows licensees to sell the alcoholic beverages made by the manufacturer. The Beverage Alcohol three-tier system in Massachusetts is engineered to segregate the three tiers of manufacturing, wholesale and retail. This amendment alters M.G.L. c 138 in a manner that is contrary to the long-standing purpose of the three-tier system. A role of the retail tier in the three-tier system is to maintain a barrier against overconsumption, adulteration of product and prevent underage drinking. Amendment 148 removes several vital safeguards against illegal sales. These are safeguards that the state relies upon. Retailers maintain certification training to address intoxicated consumers, stop second party sales and identify fake IDs. Amendment 148 deregulates by removing the gatekeeper. This amendment also opens Massachusetts to unregulated shipments of malt beverages from other states, which are very difficult to police. H476 is the companion bill to this amendment. It was put to study because of the many liabilities placed upon the state. Amendment #148 is a liability to alcohol regulation in Massachusetts.

Amendment #148 – OPPOSE

- **Amendment #275** is alarming because it tricks legislators into deregulating state alcohol laws that have been in place for over 70 years. The result is the reestablishing of vertical integration by allowing alcohol producers and suppliers of up to 50,000 gallons the means to sell direct to consumers. Amendment #275 uses the term “Farmer Distiller,” yet it allows substantial introduction of distilled spirits to be sold off-premises annually by an in-state and out-of-state producers of alcohol spirits. At \$40 to \$50 dollars a bottle, 50,000 gallons is a lot of vodka, gin, and whisky to be selling directly via an unreported third-party delivery company. The distilling, aging, bottling, and retail of 50,000 gallons of spirits is not the work of a hobbyist or organic farmer.

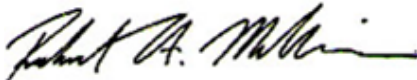
Legislators may also be surprised that Amendment #275 permits manufacturers of distilled spirits to sell the products of other suppliers that can be domiciled out of Massachusetts. Having products produced “for” someone is a practice in the alcohol beverages industry known as “private labeling.” Private labeled alcohol can come from anywhere. The language in Amendment #275 allows the manufacturers of spirits to sell products produced by them, or “for” them. Amendment #275 clearly does more than is implied.

Another issue that should be publicly debated is whether Massachusetts wants out-of-state spirits suppliers to use farmer markets as pop-up retail for selling direct to the consumer without three-tier public safety controls. Regulatory controls are strict and necessary in Massachusetts because bad spirits can harm people or be lethal. Look to the many news stories during the past three years for affirmation that deregulation can come with real consequences. Who will be monitoring the mash, bottling and distribution that happened outside of Massachusetts? If something goes wrong how will these illicit individuals and bottles be tracked? Amendment #275 should be withdrawn.

Amendment #275 – OPPOSE

Thank you in advance for the opportunity to offer testimony about our concerns regarding some of the proposed amendments to H5007 - An Act enabling partnerships for growth. Please reach out to MassPack with any questions regarding the retail of beer, wine, and spirits.

Respectfully submitted,



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Executive Director | General Counsel