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Packies argue more beer, wine sellers also mean more pot shops

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CUMBERLAND FARMS

Cumberland Farms headquarters, which stands at 555,000 square feet, hosts the company's 600-plus corporate employees.

Opponents of a ballot question that would raise the number of alcohol licenses in the state say it could also unintentionally increase the number of marijuana dispensaries — but others dispute whether those two types of licenses are truly intertwined.

The ballot question, backed by Westborough-based Cumberland Farms, seeks to create a new type of alcohol license for food stores, which would allow its stores to sell wine and malt beverages for off-premise consumption. The ballot would also eventually eliminate the statewide limits on the number of liquor licenses any one retailer could own. Nine are now allowed under state law.

The Massachusetts Package Stores Association (MPSA) has sued to stop the ballot question, arguing that the question asks the voters to decide upon several unrelated provisions that are not mutually dependent in violations of rules dictating how ballot questions must be written.

But in a statement sent to the Business Journal by the MPSA recently, it also made an additional argument: That increasing the number liquor licenses in a community would trigger an increase in the

number of marijuana retail licenses. [Rob Mellion](#), executive director and general counsel for the Massachusetts Package Stores Association, in the emailed statement that the group "raised this very issue within its memorandum to the office of Attorney General [Maura Healey](#)" prior to certifying the question in September," and added that such state laws "do not exist in a vacuum."

Healey didn't address the question of whether the liquor licenses could impose increases to marijuana licenses in her decision to certify the ballot question. Yet the argument has started to gain traction, with cannabis industry insiders saying it's likely that creating a new license type will add to alcohol license totals, and eliminating the business quota will allow groups to take advantage of them.

"It's likely to cause an increase in the number of available licenses for cities and towns," said [Adam Fine](#), an attorney with Vicente Sederberg and one of the drafters of the 2016 ballot question that legalized recreational marijuana. "Cities and towns will have to pay close attention to this and see how it will impact them."

Under current state law, municipalities must provide marijuana retail licenses to at least 20 percent of the number of liquor licenses in a town, and the Cannabis Control Commission has recommended that towns "round up" if the number results in a calculation that's a fraction. If a town wants to further restrict the number of marijuana retailers below that threshold, it must bring the question to a town meeting vote.

[David Rabinovitz](#), CEO of cannabis dispensary NewCann Group, said that for many cities and towns, the increase of one more liquor license in their town could cause the calculation — even if it's a fraction — to mandate a new cannabis license. For Cumberland Farms alone, more than 200 stores could be seeking new alcohol licenses if the ballot question passes this year.

"(Retailers) will do whatever they can to bring consumers in," Rabinovitz said. "Beer and wine licenses will be very attractive."

Not everyone agrees with that interpretation of the effects, however. Cumberland Farms says it wrote the ballot question with the intent that a new liquor license type wouldn't implicate the number of cannabis licenses, putting the proposal under a new section of state law. While eliminating the cap on a business's total liquor license totals could allow retailers to seek more licenses could impact cannabis figures, towns will ultimately have a final say, the company argues.

"I don't see a realistic scenario where this would have a direct impact on the number of marijuana licenses," said [Matthew Durand](#), manager of government affairs and public policy and an attorney for Cumberland Farms. "If a town doesn't want to issue a new liquor license, precisely because of the scenario you said that it would raise the number of cannabis licenses available, they have discretion."

[Geoffrey Beckwith](#), executive director and CEO of the Massachusetts Municipal Association, also said that because laws legalizing marijuana refer to a specific section of Massachusetts law when tying the number of cannabis retailers to alcohol licenses, the creation of a new license type in a different section likely wouldn't affect marijuana licenses.

"This ballot question with a food store license, we don't think is intended to result in, and shouldn't be intended to result in, increased marijuana licenses," Beckwith said. "But it's something we're taking a closer look at now."

Fine, the attorney who helped write the law, said it would ultimately depend on how cities and towns worded the ordinances or bylaws that oversee the cannabis industry in their community. Towns could see

an impact if they tied the cannabis retailer threshold to the broad number of alcohol licenses — instead of to a specific section of state law.

“The intention of the (ballot question), as drafted, was to tie (dispensary numbers) to the liquor stores. That was for a reason,” Fine said. “I can’t imagine that just because they put it under a different section it would change the legal ramifications of it. It will tinker with the number of stores in cities and towns and that would increase the number of cannabis stores available.”



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