



Massachusetts Package Stores Association, Inc.

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Wednesday, June 3, 2020

Written Testimony of the Massachusetts Package Stores Association Submitted to the House of Representatives for, HB4767 - An Act addressing challenges faced by food and beverage establishments resulting from the COVID-19 pandemic, where there was no hearing of record

Dear State Representative,

Thank you for your continued efforts in addressing the public safety and economic needs of Massachusetts citizens. During these unprecedented times industry and public officials have worked together in addressing many challenges. To this end, the beer, wine, and spirits stores across the state, which comprise the membership of the Massachusetts Package Stores Association (MPSA), have taken on greater burdens to offset and reduce losses and costs on others. Section 15 off premise retailers also actively supported our Section 12 on-premises partners. As an example, they directly assisted with the drafting of legislation in March that offered restaurants and breweries temporary off-premises takeout and delivery relief. The membership also supported passage of H4974, which was the Governor's relief bill.

Support for industry partners in their time of need was necessary. On-premises has been essentially shut down during the spring, and their inventory on hand could not be sold back to wholesalers. State law also prohibited stores from buying the inventory. This led to significant concern that a black market would develop where restaurants would sell alcohol illegally. In the spirit of cooperation, the best option was to sell off this inventory via take-out and delivery to prevent a black market from arising.

It is in this context that MPSA wishes to be heard about the expanded take-out and delivery provisions within HB4767. Please recognize that no action occurs in a vacuum. In the alcohol beverages industry, there was great disruption going on in Massachusetts before Covid-19. Out of state shippers of wine circumvent state law by leveraging loopholes, New Hampshire continues to offer steep discounts to Massachusetts residents, and distillers seek to retail off-premises. Then there is the Cumberland Farms ballot question.

The simple truth is that allowing restaurants to become permanent off-premises retailers directly impacts the sales off-premises retailers, because the demand for alcohol is finite unless people drink more. Furthermore, the effort to expand the accommodation has been done without consulting the affected party. These bold efforts to gain a greater foothold into off premise retail of alcohol beverages are not new. Over 80 bills were introduced this legislative session that chip away at off premise retail through the creation of additional accommodations to breweries, malt beverage producers and distillers. The industry is under tremendous stress.

Knowing that bills like HB4767 are moving fast across the country, chain restaurants like Olive Garden are taking advantage by launching their own private labels of wine that they plan to home deliver. They are using HB4767 to enter the direct to consumer wine market. You should also know that delivery to minors is on the rise in Massachusetts due to the entrance of restaurants and breweries into the off-premises side of retail. Many are not adequately carding IDs at the point of delivery. With only 20 inspectors, the ABCC is overwhelmed.

Consequently, MPSA respectfully asks that you take into consideration before you vote today that an understanding had been reached in March, which is being disregarded by this fast track legislation. In the accord, retailers were given assurances that no prolonged extension of the take-out accommodation would be sought. Such assurances were re-affirmed several times. That is not the case, as evidenced by HB4767, which extends takeout and delivery of alcohol into the spring of 2021. Off premise retailers simply ask that the accord to allow take-out delivery during the current state of emergency be honored, without an extension into 2021. That is a reasonable request.

The Massachusetts Package Stores Association (MPSA) is a non-profit trade organization representing the interests of the thousands of independently-owned retail stores of beer, wine and spirits across Massachusetts. Contact MPSA with any questions at (800) 322-1383, or email info@masspack.org. Visit the MassPack website at: www.masspack.org



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In summary, MPSA supports reasonable relief for Section 12 licensees, but the relief cannot go so far as to jeopardize the livelihood of other businesses, while also chipping away at public safety and welfare. Allowing for the takeout and delivery of alcohol beverages by on-premises licensees to go into 2021 is opening Pandora's box to making this privilege permanent. That will certainly be the next request by on-premises.

Thank you for this opportunity to be heard. Please reach out with any questions or concerns.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Mellion".

Robert A. Mellion, Esq.
Executive Director | General Counsel